

1 so held on deposit for its account.

2 (b) From time to time, to exchange and substitute for any of such assets, other  
3 assets eligible for deposit.

4 (2) If the insurer fails to cure a deficiency when required, is insolvent, is subject to  
5 delinquency proceedings, or is in default as to taxes or other charges due to this  
6 state under law, the commissioner~~executive director~~ shall collect such interest,  
7 dividends, and payments and add them to the insurer's deposit.

8 ➔Section 1036. KRS 304.8-150 is amended to read as follows:

9 (1) Except as provided in subsection (2) of this section, every domestic life insurer  
10 shall, within ninety (90) days after the net cash value of each policy in force has  
11 been ascertained as required by law, deposit with the commissioner~~executive~~  
12 ~~director~~ for the security and benefit of its policyholders, assets in an amount which,  
13 together with the sums as may be deposited by it with other states and governments  
14 by the requirements of their laws, shall be not less than the ascertained valuation of  
15 all policies in force less any sums that it has advanced from its legal reserve to its  
16 policyholders on the pledge to it of their policies and any accumulations thereon.

17 (2) If the legal reserve or the aggregate ascertained valuation of all policies in force in  
18 any domestic life insurer equals \$20,000,000, no further deposit shall be required of  
19 the insurer so long as the legal reserve remains at or above \$20,000,000, unless the  
20 insurer elects to represent on its policies or otherwise that the legal reserve or cash  
21 value of its policies thereafter written is on deposit with this state or one or more of  
22 its designated agencies, in which event the insurer shall deposit assets as above set  
23 out in an amount equal to the ascertained valuation of all of its policies in force at  
24 the time the representation is made.

25 ➔Section 1037. KRS 304.8-160 is amended to read as follows:

26 (1) Except as provided in subsection (2) of this section, no judgment creditor or other  
27 claimant of an insurer shall have the right to levy upon any of the assets held in this

1 state as a deposit for the protection of the insurer's policyholders or policyholders  
2 and creditors.

- 3 (2) As to deposits made pursuant to the retaliatory provision, KRS 304.3-270, levy  
4 thereupon shall be permitted if so provided in the commissioner's~~executive~~  
5 ~~director's~~ order under which the deposit is required.

6 ➔Section 1038. KRS 304.8-170 is amended to read as follows:

- 7 (1) Any required deposit shall be released, in addition to circumstances already  
8 provided for, in these instances only:

9 (a) Upon extinguishment of substantially all liabilities of the insurer for the  
10 security of which the deposit is held, by reinsurance contract or otherwise.

11 (b) If the deposit is no longer required under this code.

12 (c) If the deposit was made pursuant to the retaliatory provision, KRS 304.3-270,  
13 it shall be released in whole or in part when no longer so required.

14 (d) Upon proper order of a court of competent jurisdiction the deposit shall be  
15 released to the receiver, conservator, rehabilitator, or liquidator of the insurer.

- 16 (2) No release shall be made except on application to and written order of the  
17 commissioner~~executive director~~ made upon proof satisfactory to the  
18 commissioner~~executive director~~ of the existence of one of the grounds therefor.  
19 The commissioner~~executive director~~ shall not have any personal liability for any  
20 such release of any deposit or part thereof so ordered by the  
21 commissioner~~executive director~~ in good faith.

- 22 (3) All release of deposits or any part thereof shall be made to the person then entitled  
23 thereto upon proof of right satisfactory to the commissioner~~executive director~~.

24 ➔Section 1039. KRS 304.8-180 is amended to read as follows:

- 25 (1) Assets shall not be removed from the bank or trust company wherein the assets are  
26 deposited, except upon the written order of at least two (2) officers authorized for  
27 the purpose by the insurer's board of directors or other governing body, which order

1 must have been approved by the commissioner~~[executive director]~~.

2 (2) The assets shall be deposited or removed only in the joint presence of the  
3 commissioner~~[executive director]~~ and two (2) representatives of the insurer  
4 authorized for the purpose by the insurer's board of directors or other governing  
5 body.

6 (3) Except that assets may be deposited or removed under the direction and upon the  
7 order of a court of competent jurisdiction, and in the presence of the  
8 commissioner~~[executive director]~~.

9 ➔Section 1040. KRS 304.8-190 is amended to read as follows:

10 (1) Insurers maintaining deposits of assets in this state under this subtitle, shall pay into  
11 the examination expense revolving fund as provided in Subtitle 2 of this chapter,  
12 moneys sufficient to pay travel and other necessary expenses of the  
13 commissioner~~[executive director]~~ related to the maintenance, valuation, protection,  
14 or administration of the insurer's deposit.

15 (2) The portion of the expense fund to be paid by each such insurer shall be in the same  
16 approximate proportion as the amount the insurer had on deposit on December 31  
17 of the preceding year bears to the total such deposits of all insurers as of December  
18 31 of the preceding year. The commissioner~~[executive director]~~ shall assess each  
19 insurer for its proportionate share of the expense fund. The minimum charge for  
20 each insurer shall be five dollars (\$5).

21 ➔Section 1041. KRS 304.9-020 is amended to read as follows:

22 As used in this subtitle:

23 (1) "Agent" means an individual or business entity appointed by an insurer to sell or to  
24 solicit applications for insurance or annuity contracts or to negotiate insurance or  
25 annuity contracts on its behalf;

26 (2) "Appointment" means a notification filed with the insurance department~~[office]~~  
27 that an insurer has established an agency relationship with a producer;

- 1 (3) "Appointment renewal" means continuation of an insurer's existing appointment  
 2 based on payment of the required fee without submission of an appointment form;
- 3 (4) "Business entity" means a corporation, association, partnership, limited liability  
 4 company, limited liability partnership, employer group, professional employer  
 5 organization, or other legal entity;
- 6 (5) "Crop insurance" means insurance providing protection against damage to crops  
 7 from unfavorable weather conditions, fire or lightning, flood, hail, insect  
 8 infestation, disease, or other yield-reducing conditions or perils provided by the  
 9 private insurance market or that is subsidized by the Federal Crop Insurance  
 10 Corporation, including multi-peril crop insurance;
- 11 (6) "Home state" means the District of Columbia and any state or territory of the United  
 12 States in which a licensee maintains his or her principal place of residence or  
 13 principal place of business and is licensed by that state;
- 14 (7) "Insurance producer" means an individual or business entity required to be licensed  
 15 under the laws of Kentucky to sell, solicit, or negotiate insurance or annuity  
 16 contracts. Insurance producer includes agent, managing general agent, surplus lines  
 17 broker, reinsurance intermediary broker and manager, rental vehicle agent and  
 18 managing employee, specialty credit producer and managing employee, and  
 19 consultant;
- 20 (8) "Limited line credit insurance" includes credit life, credit disability, credit property,  
 21 credit unemployment, involuntary unemployment, mortgage life, mortgage  
 22 guaranty, mortgage disability, guaranteed automobile protection insurance, and any  
 23 other form of insurance offered in connection with an extension of credit that is  
 24 limited to partially or wholly extinguishing that credit obligation that the  
 25 commissioner~~executive director~~ determines should be designated a form of  
 26 limited line credit insurance;
- 27 (9) "Limited line credit insurance agent" means an individual or business entity who



- 1 sells, solicits, or negotiates one (1) or more forms of limited line credit insurance  
 2 coverage to individuals through a master, corporate, group, or individual policy;
- 3 (10) "Limited lines insurance" means the lines of insurance defined in subsections (5),  
 4 (8), (14), and (16) of this section and any other line of insurance that the  
 5 commissioner~~executive director~~ identifies in accordance with KRS 304.9-  
 6 230(1)(e) or recognizes for the purpose of complying with KRS 304.9-140(5);
- 7 (11) "Negotiate" means the act of conferring directly with, or offering advice directly to,  
 8 a purchaser or prospective purchaser of a particular contract of insurance  
 9 concerning any of the substantive benefits, terms, or conditions of the contract;
- 10 (12) "Sell" means to exchange a contract of insurance by any means, for money or other  
 11 valuable consideration, on behalf of an insurer;
- 12 (13) "Solicit" means attempting to sell insurance or asking or urging a person to apply  
 13 for a particular kind of insurance from a particular insurer;
- 14 (14) "Surety" means insurance or bond that covers obligation to pay the debts of, or  
 15 answer for the default of another, including faithlessness in a position of public or  
 16 private trust. Surety also includes surety insurance as defined in KRS 304.5-060;
- 17 (15) "Terminate" means the cancellation of the relationship between an insurance  
 18 producer and the insurer or the termination of an insurance producer's authority to  
 19 transact insurance;
- 20 (16) "Travel insurance" means insurance coverage for trip cancellation, trip interruption,  
 21 baggage, life, sickness and accident, disability, and personal effects if limited to a  
 22 specific trip and sold in connection with transportation provided by a common  
 23 carrier;
- 24 (17) "Uniform business entity application" means the current version of the National  
 25 Association of Insurance Commissioners uniform business entity application for  
 26 resident and nonresident business entities; and
- 27 (18) "Uniform individual application" means the current version of the National

1 Association of Insurance Commissioners uniform individual application for resident  
2 and nonresident individuals.

3 ➔Section 1042. KRS 304.9-030 is amended to read as follows:

4 (1) Unless denied a license according to KRS 304.9-440, applicants who have met the  
5 requirements for the license in accordance with this subtitle, shall be issued the  
6 applicable license.

7 (2) An insurance agent may receive qualification for a license in one (1) or more of the  
8 following applicable lines of authority:

9 (a) Life -- insurance coverage on human lives including benefits of endowment  
10 and annuities, and may include benefits in the event of death or  
11 dismemberment by accident and benefits for disability income;

12 (b) Health -- insurance coverage for sickness, bodily injury, or accidental death  
13 and may include benefits for disability income;

14 (c) Property -- insurance coverage for the direct or consequential loss or damage  
15 to property of every kind;

16 (d) Casualty -- insurance coverage against legal liability, including that for death,  
17 injury, or disability, or damage to real or personal property;

18 (e) Variable life and variable annuity products -- insurance coverage provided  
19 under variable life insurance contracts and variable annuities;

20 (f) Limited line insurance as identified in KRS 304.9-230;

21 (g) Personal lines -- property and casualty insurance coverage sold to individuals  
22 and families for primarily noncommercial purposes; and

23 (h) Any other line of insurance authorized by Kentucky law and deemed by the  
24 commissioner~~executive director~~ appropriate to be issued as a separate line  
25 of authority.

26 (3) A resident applicant for a variable life and variable annuities line of authority shall  
27 hold an active life line of authority.

➔Section 1043. KRS 304.9-052 is amended to read as follows:

(1) No individual or business entity shall in this state be, act as, or hold himself or herself out to be an administrator unless then licensed as an administrator by the commissioner~~[executive director]~~.

(2) For the protection of the people of this state, the commissioner~~[executive director]~~ shall not issue, continue, or permit to exist any administrator license for any person unless such person demonstrates to the satisfaction of the commissioner~~[executive director]~~ that the following standards are met:

(a) If an individual, the applicant has attained the age of twenty-one (21) years;

(b) The applicant is competent, trustworthy, reliable, and of good reputation;

(c) If an individual, the applicant has attained an educational level acceptable to the commissioner~~[executive director]~~;

(d) The applicant is financially responsible;

(e) The applicant has not had any license issued by the commissioner~~[executive director]~~, or application therefor, terminated for cause;

(f) The applicant is a resident of Kentucky or is currently licensed and in good standing in his or her home state;

(g) The applicant has paid the fee prescribed in KRS 304.4-010;

(h) If a business entity, each individual authorized to act for the business entity under its administrator license shall be designated with the commissioner~~[executive director]~~ in accordance with KRS 304.9-133; and

(i) Administrator licenses shall be renewed in accordance with KRS 304.9-260.

➔Section 1044. KRS 304.9-080 is amended to read as follows:

(1) An individual or business entity shall not sell, solicit, or negotiate insurance in this state unless duly licensed as the appropriate insurance producer for that line of authority in accordance with this subtitle or Subtitle 10 of this chapter.

(2) No individual or business entity shall in this state be, act as, or hold himself, herself,

1 or itself out as an adjuster unless then licensed as an adjuster.

2 (3) No individual or business entity shall in this state be, act as, or hold himself, herself,  
3 or itself out as a consultant unless then licensed as a consultant. No consultant shall  
4 act as a consultant with respect to any kind of insurance unless duly licensed as a  
5 consultant for that line of authority.

6 (4) Except as provided in KRS 304.9-410 and KRS 304.9-270(4), no agent shall place,  
7 and no insurer shall accept, any insurance with any insurer as to which the agent  
8 does not then hold a license and appointment as agent under this subtitle.

9 (5) No rental vehicle agent, rental vehicle managing employee, specialty credit  
10 producer, or specialty credit managing employee shall place, and no insurer shall  
11 accept, any insurance with any insurer as to which the licensee does not then hold a  
12 license and appointment under this subtitle.

13 (6) The commissioner~~[executive director]~~ shall prescribe and furnish all forms required  
14 under this subtitle as to licenses and appointments.

15 ➔Section 1045. KRS 304.9-085 is amended to read as follows:

16 (1) A "managing general agent" is an individual or business entity appointed by an  
17 insurer to solicit applications from agents for insurance contracts or to negotiate  
18 insurance contracts on behalf of an insurer and, if authorized to do so by an insurer,  
19 to effectuate and countersign insurance contracts.

20 (2) No individual or business entity shall in this state be, act as, or hold himself~~[-or]~~  
21 herself, or itself out as a managing general agent unless then licensed as a managing  
22 general agent. In order to qualify for a managing general agent license, an individual  
23 shall:

24 (a) Hold an agent license with property and casualty lines of authority and be  
25 appointed by each authorized insurer the licensee holds the contract to  
26 represent;

27 (b) If a nonresident, hold a nonresident agent license with property and casualty

lines of authority and be appointed by each authorized insurer the licensee holds a contract to represent in Kentucky; and

(c) Hold a surplus lines broker license if any unauthorized insurers are represented or used.

In order for a business entity to qualify for a managing general agent license, all individuals acting on behalf of the business entity under its license shall be licensed agents with property and casualty lines of authority and shall be designated with the commissioner~~executive director~~ as to the license in accordance with all provisions of KRS 304.9-133 except for subsection (2)(a).

(3) As used in this chapter, "agent" includes managing general agent unless the context requires otherwise.

(4) A managing general agent is a representative of the insurers which the managing general agent holds a contract to represent. Each insurer is liable for the acts of the managing general agent in representing that insurer.

(5) The commissioner~~executive director~~ shall renew managing general agent licenses in accordance with KRS 304.9-260.

➔Section 1046. KRS 304.9-100 is amended to read as follows:

(1) The purpose of a license issued under this subtitle to an insurance producer is to authorize and enable the licensee actively and in good faith to engage in the business of insurance with respect to the general public, and to facilitate the public supervision of such activities in the public interest; and not for the purpose of enabling the licensee to receive a rebate of premium in the form of "commission" or other compensation upon his or her own interest or upon those of other persons with whom he or she is closely associated in capacities other than as an insurance producer.

(2) The commissioner~~executive director~~ shall not grant, renew, continue, or permit to exist any license of an insurance producer as to any applicant therefor or licensee

1 thereunder if he or she finds that the license has been or is being or will probably be  
 2 used by the applicant or licensee principally for the purpose of writing "controlled  
 3 business," that is:

4 (a) Insurance on his or her own interest or those of his or her family or of his or  
 5 her employer; or

6 (b) Insurance or annuity contracts covering himself, herself, or members of his or  
 7 her family, or the officers, directors, stockholders, partners, employees, or  
 8 debtors of a partnership, association, or corporation of which he or she, or a  
 9 member of his or her family, is an officer, director, stockholder, partner,  
 10 associate, or employee.

11 (3) Such a license shall be deemed to have been, or intended to be, used principally for  
 12 the purpose of writing controlled business if the commissioner~~[executive director]~~  
 13 finds that during any twelve (12) months' period the aggregate premiums accruing  
 14 or to accrue from controlled business have exceeded or probably will exceed the  
 15 aggregate premiums accruing or to accrue on other business written or probably to  
 16 be written by the applicant or licensee during the same period.

17 (4) This section shall not apply as to:

18 (a) Insurance of the interest of a motor vehicle sales or financing agent in a motor  
 19 vehicle sold or financed by it;

20 (b) Insurance of the interest of real property mortgagee in the mortgaged property,  
 21 except title insurance;

22 (c) Limited line credit insurance; and

23 (d) Rental vehicle insurance.

24 ➔Section 1047. KRS 304.9-105 is amended to read as follows:

25 (1) An individual applying for an agent license shall make application to the  
 26 commissioner~~[executive director]~~ on the uniform individual application or other  
 27 application prescribed by the commissioner~~[executive director]~~. Before approving

1 the application, the commissioner~~[executive director]~~ shall find that the applicant:

- 2 (a) Is at least eighteen (18) years of age;
- 3 (b) Has fulfilled the residence requirements as set forth in KRS 304.9-120 or is a  
4 nonresident who is not eligible to be issued a license in accordance with KRS  
5 304.9-140;
- 6 (c) Has not committed any act that is a ground for denial, suspension, or  
7 revocation set forth in KRS 304.9-440;
- 8 (d) Is trustworthy, reliable, and of good reputation, evidence of which shall be  
9 determined through an investigation by the commissioner~~[executive director]~~;
- 10 (e) Is competent to exercise the license and has:
  - 11 1. Except for variable life and variable annuities line of authority and  
12 limited lines of authority identified in KRS 304.9-230, completed a  
13 prelicensing course of study consisting of forty (40) hours for life and  
14 health, forty (40) hours for property and casualty, or twenty (20) hours  
15 for each line of authority, as applicable, for which the individual has  
16 applied. The commissioner~~[executive director]~~ shall promulgate  
17 administrative regulations to carry out the purpose of this section;
  - 18 2. Except for variable life and variable annuities line of authority and  
19 limited lines of authority identified in accordance with KRS 304.9-230,  
20 successfully passed the examinations required by the  
21 commissioner~~[executive director]~~ for the lines of authority for which the  
22 individual has applied; and
  - 23 3. Paid the fees set forth in KRS 304.4-010; and
- 24 (f) Is financially responsible to exercise the license and has:
  - 25 1. a. Filed with the commissioner~~[executive director]~~ the certificate of  
26 an insurer authorized to write legal liability insurance in this state,  
27 that the insurer has and will keep in effect on behalf of the person a

1 policy of insurance covering the legal liability of the licensed  
 2 person as the result of erroneous acts or failure to act in his or her  
 3 capacity as an insurance agent, and enuring to the benefit of any  
 4 aggrieved party as the result of any single occurrence in the sum of  
 5 not less than twenty thousand dollars (\$20,000) and one hundred  
 6 thousand dollars (\$100,000) in the aggregate for all occurrences  
 7 within one (1) year, and that the policy shall not be terminated  
 8 unless at least thirty (30) days' prior written notice will have been  
 9 given to the commissioner~~[executive director]~~; or

10 b. Deposited with the commissioner~~[executive director]~~ cash, or a  
 11 cash surety bond executed by an insurer authorized to write  
 12 business in this Commonwealth, in the sum of twenty thousand  
 13 dollars (\$20,000), which shall be subject to lawful levy of  
 14 execution by any party to whom the licensee has been found to be  
 15 legally liable as the result of erroneous acts or failure to act in his  
 16 or her capacity as an agent; or

17 c. Filed with the commissioner~~[executive director]~~ on his or her  
 18 behalf, by an authorized insurer or group of affiliated insurers for  
 19 which he or she is or is to become an exclusive agent, an  
 20 agreement whereby the insurer or group of affiliated insurers  
 21 agrees to assume responsibility, to the benefit of any aggrieved  
 22 party, for legal liability of the licensed person as the result of  
 23 erroneous acts or failure to act in his or her capacity as an  
 24 insurance agent on behalf of the insurer or group of affiliated  
 25 insurers in the sum of twenty thousand dollars (\$20,000) for any  
 26 single occurrence and that the agreement shall not be terminated  
 27 until the license is surrendered to the commissioner~~[executive~~



1           ~~director~~] or at least thirty (30) days' prior written notice will have  
 2           been given to the commissioner~~[executive director]~~, whichever  
 3           shall first occur; and

- 4           2. Agreed with the commissioner~~[executive director]~~ that if at any time  
 5           notice is given to the commissioner~~[executive director]~~ that any policy  
 6           filed in accordance with subparagraph 1.a. of this paragraph, or  
 7           agreement filed in accordance with subparagraph 1.c. of this paragraph,  
 8           is to be terminated and has not been replaced by another policy or  
 9           agreement within the time established by regulations of the  
 10          commissioner~~[executive director]~~, or if any deposit in accordance with  
 11          subparagraph 1.b. of this paragraph be reduced through levy of  
 12          execution and not replaced by any necessary additional deposit within  
 13          the time established by administrative regulations of the  
 14          commissioner~~[executive director]~~, any and all licenses held by the  
 15          licensee are revoked and shall be promptly surrendered to the  
 16          commissioner~~[executive director]~~ without demand.

- 17       (2) The commissioner~~[executive director]~~ may require additional information or  
 18       submissions from applicants and may obtain any documents or information  
 19       reasonably necessary to verify the information contained in an application.

20       ➔Section 1048. KRS 304.9-107 is amended to read as follows:

- 21       (1) The following persons shall be exempt from the prelicensing course of study  
 22       requirements for specific lines of authority of KRS 304.9-105(1)(e)1.:
- 23       (a) Persons holding a Chartered Life Underwriter (CLU) designation for a life  
 24       line of authority;
  - 25       (b) Persons holding a Chartered Property and Casualty Underwriter (CPCU)  
 26       designation for property, personal lines, and casualty lines of authority;
  - 27       (c) Persons holding a Certified Insurance Counselor (CIC) designation for life,

- 1 health, property, personal lines, and casualty lines of authority;
- 2 (d) Persons holding a designation as a Certified Employee Benefit Specialist
- 3 (CEBS), Chartered Financial Consultant (ChFC), Certified Financial Planner
- 4 (CFP), Fellow of the Life Management Institute (FLMI), or Life Underwriter
- 5 Training Council Fellow (LUTCF) for a life line of authority;
- 6 (e) Persons holding a designation as a Registered Health Underwriter (RHU),
- 7 Certified Employee Benefit Specialist (CEBS), Registered Employee Benefit
- 8 Consultant (REBC), or Health Insurance Advisor (HIA) for a health line of
- 9 authority;
- 10 (f) Persons holding a designation as an Accredited Advisor in Insurance (AAI) or
- 11 Associate in Risk Management (ARM) for property, personal lines, and
- 12 casualty lines of authority; and
- 13 (g) Persons holding an insurance degree from an accredited college or university
- 14 for all lines of authority.
- 15 (2) The commissioner~~executive director~~ may promulgate administrative regulations
- 16 to specify additional designations and degrees for exemption from a prelicensing
- 17 course of study for specified lines of authority to comply with NAIC uniformity
- 18 standards.
- 19 ➔Section 1049. KRS 304.9-120 is amended to read as follows:
- 20 (1) Each applicant for license as a resident licensee shall be qualified to designate and
- 21 shall designate Kentucky as the applicant's home state at the date of application for
- 22 the license and shall maintain that eligibility throughout the duration of the license.
- 23 (2) In determining the good faith of an applicant's claim that Kentucky is the applicant's
- 24 principal place of residence, the commissioner~~executive director~~ may give due
- 25 consideration to the following:
- 26 (a) The amount of time actually spent by the applicant within this state during the
- 27 claimed residence period;

(b) The circumstances of the applicant's residence, that is, whether in a single or multiple family-type dwelling, or leased apartment, or permanent residential type; or in hotel, resort, motel, mobile home, or other temporary or transient type of dwelling or accommodation;

(c) The circumstances of the applicant, his or her past history and activities, and the probability that he or she will continue as a resident of this state indefinitely into the future if the license were to be issued; and

(d) All other pertinent factors.

→Section 1050. KRS 304.9-130 is amended to read as follows:

(1) A business entity acting as an agent is required to obtain an agent license. Application shall be made using the uniform business entity application or other application prescribed by the commissioner~~[executive director]~~. Before approving the application of a business entity as a resident or as a nonresident which is not eligible to be issued a license in accordance with KRS 304.9-140, the commissioner~~[executive director]~~ shall find that:

(a) The business entity has paid the fees set forth in KRS 304.4-010;

(b) Each officer, director, and member of the business entity who is acting as an agent has obtained an agent's license;

(c) The business entity has disclosed to the Department~~[Office]~~ of Insurance the identity of all officers and directors and whether or not they are licensed as agents; and

(d) The business entity has designated a licensed agent responsible for the business entity's compliance with the insurance laws and regulations of this state.

(2) Within thirty (30) days of the change, the licensee shall notify the commissioner~~[executive director]~~ of all changes among its members, directors, officers, and other individuals designated in or registered as to the license.

1 (3) Each agent authorized to act for the business entity shall be designated with the  
 2 commissioner~~[executive-director]~~ as to the license in accordance with KRS 304.9-  
 3 133.

4 (4) The commissioner~~[executive-director]~~ may require additional information or  
 5 submissions from applicants and may obtain any documents or information  
 6 reasonably necessary to verify the information contained in an application.

7 ➔Section 1051. KRS 304.9-133 is amended to read as follows:

8 (1) A business entity issued a license in accordance with this subtitle, or issued a life  
 9 settlement broker or life settlement provider license, shall designate only  
 10 individuals to act under the business entity license.

11 (2) Each designated individual shall:

12 (a) Hold the same kind of license as the business entity;

13 (b) If the business entity license has lines of authority, have one (1) or more of the  
 14 same lines of authority; and

15 (c) If the individual is designated under an agent license, have at least one (1)  
 16 appointment with an insurer.

17 (3) The licensed business entity shall file with the commissioner~~[executive-director]~~:

18 (a) Notice of the designation of an individual within thirty (30) days of the  
 19 designation; and

20 (b) Notice of termination of designation of an individual within thirty (30) days of  
 21 the termination of designation.

22 (4) (a) On or before January 31 of each odd-numbered year, each licensed business  
 23 entity shall file with the commissioner~~[executive-director]~~ an annual report of  
 24 all designated individuals whose designations were not terminated on or prior  
 25 to December 31 of the preceding calendar year.

26 (b) The report shall include each individual licensee's name, identification  
 27 number, and lines of authority the individual is designated to exercise on

1           behalf of the business entity.

2   (5) The notice and report shall be on a form or in a format prescribed by the  
3       commissioner~~[executive director]~~.

4   (6) A licensed business entity shall exercise the license only through a designated  
5       individual licensee.

6       (a) The business entity shall have for each of its active lines of authority at least  
7           one (1) licensed individual with the same line of authority designated with the  
8           commissioner~~[executive director]~~. If the business entity fails to have at least  
9           one (1) licensed individual designated with the commissioner~~[executive~~  
10          ~~director]~~ for a line of authority, that line of authority shall become inactive;  
11          and

12       (b) The business entity shall have at least one (1) licensed individual designated  
13           with the commissioner~~[executive director]~~ at all times. If the business entity  
14           fails to have at least one (1) individual designated with the  
15           commissioner~~[executive director]~~, the business entity license shall terminate  
16           and shall be promptly surrendered to the commissioner~~[executive director]~~  
17           without demand.

18   (7) An insurer that has appointed the business entity licensee shall be responsible for  
19       the acts of each designated individual performed under the business entity's license  
20       as if the insurer had appointed the individual licensee.

21       ➔Section 1052. KRS 304.9-135 is amended to read as follows:

22   (1) As used in this section:

23       (a) "Financial institution" means a bank or bank holding company as defined in  
24           the Bank Holding Company Act of 1956, as amended, 12 U.S.C. sec. 1841, a  
25           savings bank, savings and loan association, trust company, or any depository  
26           institution as defined by the Federal Deposit Insurance Act in 12 U.S.C. sec.  
27           1813(c)(1), and any other individual, corporation, partnership, or association

1 authorized to take deposits and make loans in the Commonwealth, and any  
2 affiliate or subsidiary of any of the above;

3 (b) "Insurance agency activities" means any activity relating to insurance other  
4 than title insurance, for which a license as agent, reinsurance intermediary  
5 broker or manager, specialty credit producer or managing employee, surplus  
6 lines broker, or consultant is required under this chapter; and

7 (c) "Insurance information" means any information concerning premiums, terms,  
8 and conditions of insurance coverage, including expiration dates and rates,  
9 and claims maintained in the records of the financial institution or affiliate.

10 (2) A financial institution authorized by law to engage in insurance agency activities in  
11 this state shall, in addition to any other applicable requirements, comply with the  
12 following requirements:

13 (a) The financial institution or officer, agent, representative, or employee thereof  
14 shall qualify for licensure under all applicable provisions of this chapter and  
15 abide by all applicable provisions of this chapter and applicable administrative  
16 regulations;

17 (b) A financial institution shall provide a written statement to a consumer  
18 regarding the consumer's free choice of agent and insurer according to KRS  
19 304.12-150, when the consumer's application for a loan or other extension of  
20 credit from the financial institution is pending and when insurance is offered  
21 to the consumer, sold to the consumer, or required in connection with the loan  
22 or extension of credit by the financial institution or affiliate;

23 (c) A financial institution shall not release a consumer's insurance information to  
24 any person or entity for the solicitation or selling of insurance, other than an  
25 officer, director, employee, agent, or affiliate of a financial institution, without  
26 prior disclosure to the consumer and the opportunity for the consumer to  
27 prevent the disclosure;

(d) A financial institution shall not release or use health information obtained from the insurance records of a consumer for any purpose, other than activities of a licensed agent, administrator, reinsurance intermediary broker or manager, specialty credit producer or managing employee, surplus lines broker, or consultant, without the written consent of the consumer;

(e) A financial institution licensed by the department~~office~~ to engage in insurance agency activities shall:

1. Not violate the anti-tying provisions of the Bank Holding Company Act, 12 U.S.C. secs. 1971 et seq., in effect as of December 31, 1997; and
2. Notify the department~~office~~ in writing within ten (10) days of any final judgment or any final administrative action, by a federal agency authorized to enforce the anti-tying provision, that finds that the financial institution or any of its employees committed a violation of the Bank Holding Company Act. Any such final and unappealable judgment or final and unappealable administrative action shall be deemed a violation of this chapter;

(f) Prior to the sale of any policy of insurance to a consumer, a financial institution shall, when practicable, provide to the consumer a written statement that:

1. The insurance offered by the financial institution is not a deposit;
2. The insurance offered by the financial institution is not insured by the Federal Deposit Insurance Corporation or other government agency that insures deposits;
3. The insurance offered by the financial institution is not guaranteed by the financial institution or any affiliate;
4. The insurance may involve investment risk, including potential loss of principal; and

- 1 (g) The commissioner~~[executive-director]~~ shall promulgate administrative  
 2 regulations in accordance with KRS Chapter 13A that specify the disclosure  
 3 forms required by subsections (b), (c), and (f) of this section.
- 4 (3) An officer or employee of a financial institution shall not directly or indirectly delay  
 5 or impede the completion of a loan transaction or any other transaction with a  
 6 financial institution for the purpose of influencing a consumer's selection or  
 7 purchase of any insurance.
- 8 (4) A financial institution shall not use any advertisement or promotional material  
 9 causing a reasonable person to mistakenly believe that:
- 10 (a) The federal government or any state guarantees the insurance sales activities  
 11 of financial institutions or guarantees the credit of the financial institution; or
- 12 (b) Any state or federal government guarantees any return on insurance products  
 13 or is a source of payment on any insurance product sold by the financial  
 14 institution.
- 15 (5) A financial institution shall use separate documentation for all credit and insurance  
 16 transactions when a consumer obtains insurance and credit, other than credit  
 17 insurance, from a financial institution or any individual or business entity soliciting  
 18 or selling insurance on the premises of a financial institution.
- 19 (6) A financial institution shall not include an expense of insurance premiums in a  
 20 credit transaction when a consumer obtains insurance and credit, other than credit  
 21 insurance, from a financial institution or any individual or business entity soliciting  
 22 or selling insurance on the premises of a financial institution, without the written  
 23 consent of the consumer.
- 24 (7) A financial institution shall maintain separate and distinct books and records  
 25 relating to insurance transactions conducted through the financial institution,  
 26 including files relating to consumer complaints. The books, records, and files shall  
 27 be made available to the commissioner~~[executive-director]~~ for inspection in



1       accordance with KRS 304.2-220.

2       ➔Section 1053. KRS 304.9-140 is amended to read as follows:

3       (1) Unless denied a license in accordance with KRS 304.9-440, a nonresident  
4       individual or business entity shall receive the applicable insurance producer license  
5       if:

6       (a) The applicant is currently licensed as a resident and in good standing in his or  
7       her home state;

8       (b) The applicant has submitted the proper request for license and has paid the  
9       fees required by KRS 304.4-010 and administrative regulations;

10      (c) The applicant has submitted or transmitted to the commissioner~~executive~~  
11      ~~director~~ the application for a license that the applicant submitted to his or her  
12      home state or a completed uniform individual application or uniform business  
13      entity application; and

14      (d) The applicant's home state awards nonresident licenses to residents of this  
15      state on the same basis.

16      (2) The commissioner~~executive director~~ may verify the applicant's license status  
17      through the database maintained by the National Association of Insurance  
18      Commissioners, its affiliates, or subsidiaries.

19      (3) A nonresident licensee who changes his or her home state to a state other than  
20      Kentucky shall file a change of address and provide certification from the new  
21      home state within thirty (30) days of the change of home state. No fee or license  
22      application is required.

23      (4) Notwithstanding any other provisions of this chapter, on or after July 1, 2002, an  
24      individual licensed as a surplus lines broker in his or her home state shall receive a  
25      nonresident surplus lines broker license by meeting the requirements of subsection  
26      (1) of this section. Except as to subsection (1) of this section, nothing in this section  
27      otherwise amends or supersedes any provision of Subtitle 10 of this chapter.

- 1 (5) Notwithstanding any other provision of this subtitle, an individual licensed as a  
 2 limited lines agent in his or her home state shall receive a nonresident limited lines  
 3 agent license in accordance with subsection (1) of this section, granting the same  
 4 scope of authority as granted under the license issued by the agent's home state.
- 5 (6) The commissioner~~[executive director]~~ shall waive any requirements for a  
 6 nonresident license applicant with a valid license from his or her home state, except  
 7 the requirements imposed by subsection (1) of this section, if the applicant's home  
 8 state awards nonresident licenses to residents of Kentucky on the same basis.
- 9 (7) As a condition to or in connection with the continuation of an insurance producer  
 10 license issued under this section, the licensee must maintain the applicable license  
 11 in his or her home state. The insurance producer license issued under this section  
 12 shall terminate and be surrendered to the commissioner~~[executive director]~~ if and  
 13 when the licensee's applicable home state license terminates for any reason.
- 14 ➔Section 1054. KRS 304.9-150 is amended to read as follows:
- 15 (1) Application for a license issued under this subtitle, surplus lines broker license, life  
 16 settlement broker license, or life settlement provider license shall be made by the  
 17 applicant. Applications under this subsection shall be certified by the applicant as  
 18 true, correct, and complete to the best of the applicant's knowledge and belief under  
 19 penalty of perjury and under penalty of refusal, suspension, or revocation of the  
 20 license.
- 21 (2) The form of application shall require full answers to any questions as may be  
 22 reasonably necessary to determine the applicant's identity, residence, personal  
 23 history, business record, financial responsibility, experience in insurance, purpose  
 24 for which the license is to be used, and other facts as required by the  
 25 commissioner~~[executive director]~~ to determine whether the applicant meets the  
 26 applicable qualifications for the license applied for.
- 27 (3) The application shall state the kinds of insurance and any applicable lines of

1 authority proposed to be transacted.

2 (4) The application of a resident individual shall show whether the applicant is a citizen  
3 of the United States. If the applicant is not a citizen of the United States, the  
4 applicant shall attach to the application a copy of his or her legal work authorization  
5 document.

6 (5) The application shall also show whether the applicant was ever convicted of or is  
7 currently charged with committing a crime; whether the applicant was ever involved  
8 in an administrative proceeding regarding any professional or occupational license;  
9 whether the applicant has a history of not being financially responsible; whether the  
10 applicant has any delinquent tax obligation that is not the subject of a repayment  
11 agreement; whether the applicant is currently charged with or has ever been found  
12 liable of fraud, misappropriation, conversion of funds, misrepresentation, or breach  
13 of fiduciary duty; whether the applicant has child support obligations in arrearage or  
14 is subject to a child support-related subpoena or warrant; and whether the applicant  
15 has ever had a business relationship with an insurer terminated for any alleged  
16 misconduct, and the facts thereof.

17 (6) The commissioner~~[executive-director]~~ may require additional information or  
18 submissions from applicants and may obtain any documents or information  
19 reasonably necessary to verify the information contained in an application.

20 (7) All applications shall be accompanied by:

21 (a) The applicable license fee and examination fee, in the respective amounts  
22 stated in KRS 304.4-010:

23 (b) Documentation supporting affirmative answers to the questions posed in the  
24 background section;

25 (c) If a business entity, certificates issued by the Kentucky Secretary of State  
26 demonstrating the business entity is qualified to conduct business in  
27 Kentucky; and

(d) If using an assumed name, copy of any certificate required under KRS 365.015.

(8) An individual designating Kentucky as his or her home state shall submit to the commissioner~~executive director~~ the applicant's criminal background report from the Kentucky Administrative Office of the Courts.

(9) No applicant for any license shall willfully misrepresent or withhold any fact or information called for in the application form or in connection therewith.

(10) If the licensee is a business entity, the licensee shall notify the commissioner~~executive director~~ of all changes among its members, directors, officers and other individuals designated in or registered as to the license, within thirty (30) days of such change.

➔Section 1055. KRS 304.9-160 is amended to read as follows:

(1) An individual applying for any license under this subtitle requiring an examination shall pass a written examination unless exempt under KRS 304.9-170. Examinations required by this section shall be developed and conducted in accordance with administrative regulations promulgated by the commissioner~~executive director~~.

(2) The commissioner~~executive director~~ may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable fee set forth in KRS 304.4-010.

(3) Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the commissioner~~executive director~~ as set forth in KRS 304.4-010.

(4) An individual who fails to appear for the examination as scheduled or fails to pass the examination, shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

➔Section 1056. KRS 304.9-170 is amended to read as follows:

No preclicensing education or examination shall be required of:

- 1 (1) (a) An individual licensee who allows his or her license to lapse if the license  
2 renewal fee is paid within twelve (12) months from the due date of the license  
3 renewal fee. However, a penalty in the amount of double the unpaid renewal  
4 fee shall be imposed. The department~~office~~ shall issue a license with the  
5 same lines of authority as the lapsed license.
- 6 (b) Any applicant for license covering any line of authority to which the applicant  
7 was licensed under a similar license in Kentucky, other than a temporary  
8 license, within the twelve (12) months next preceding date of application. The  
9 applicant is not eligible for this exemption if the previous license was revoked  
10 or suspended by the commissioner~~executive director~~ for reasons other than  
11 failure to maintain financial responsibility or to meet continuing education  
12 requirements as required by KRS 304.9-105 and 304.9-295.
- 13 (c) A licensed insurance agent operating as a life settlement broker pursuant to  
14 KRS 304.15-700(2)(b).
- 15 (2) An individual who applies for an insurance producer license in Kentucky who was  
16 previously licensed for the same lines of authority in another state shall not be  
17 required to complete any prelicensing education or examination. This exemption is  
18 only available if the applicant is currently licensed in the other state or if the  
19 application is received within ninety (90) days of the cancellation of the applicant's  
20 previous license and if the prior state issues a certification that, at the time of  
21 cancellation, the applicant was in good standing in that state or the state's database  
22 records, maintained by the National Association of Insurance Commissioners, its  
23 affiliates, or subsidiaries, indicate that the insurance producer is or was licensed in  
24 good standing for the line of authority requested.
- 25 (3) An individual licensed as an insurance producer in another state within the last  
26 twelve (12) months who moves to Kentucky shall make application within ninety  
27 (90) days of establishing legal residence to become a resident licensee in accordance

1 with KRS 304.9-105. No prelicensing education or examination shall be required of  
 2 that applicant to obtain a license for any line of authority previously held in the  
 3 prior home state except where the commissioner~~[executive director]~~ determines  
 4 otherwise by administrative regulation.

5 (4) An applicant for an insurance producer's license who is currently licensed in  
 6 Kentucky as a consultant as to the same line of authority, or has been so licensed  
 7 within twelve (12) months next preceding the date of application for the license,  
 8 unless the previous license was revoked or suspended or continuation thereof  
 9 refused by the commissioner~~[executive director]~~ for reasons other than failure to  
 10 maintain financial responsibility as required by KRS 304.9-330.

11 (5) Any applicant for license covering the same line of authority as to which that  
 12 applicant shall have held a valid license issued in accordance with this subtitle or  
 13 other applicable Kentucky law which was surrendered, in accordance with KRS  
 14 304.2-080 or other applicable law, in order to accept employment with the  
 15 Department~~[Office]~~ of Insurance, provided, however, that the applicant shall apply  
 16 for relicensing within twelve (12) months of the date of termination of his or her  
 17 employment with the Department~~[Office]~~ of Insurance.

18 ➔Section 1057. KRS 304.9-180 is amended to read as follows:

19 (1) The examination shall test the knowledge or relevant skills and abilities of the  
 20 individual concerning the lines of authority for which application is made, the  
 21 duties and responsibilities of a licensee, and the pertinent insurance laws and  
 22 administrative regulations of this state.

23 (2) The commissioner~~[executive director]~~ shall make available to applicants for  
 24 license, printed information as to the general scope of, and principal subjects to be  
 25 covered by, the examination for a particular license, together with information as to  
 26 published books and other reference sources which may be studied by the applicant  
 27 to prepare for the examination; but the commissioner~~[executive director]~~ shall not

1 furnish lists of examination questions and examination questions shall not be  
 2 selected from lists known to the commissioner~~executive director~~ to have been  
 3 furnished applicants.

4 ➔Section 1058. KRS 304.9-190 is amended to read as follows:

5 (1) The commissioner~~executive director~~ shall provide a reasonable opportunity to all  
 6 applicants to take the examinations required by this subtitle. Examinations shall be  
 7 held at least monthly at places in this state designated by the  
 8 commissioner~~executive director~~ reasonably accessible to applicants, and at least  
 9 weekly at Frankfort.

10 (2) The commissioner~~executive director~~ shall give, conduct, and grade all  
 11 examinations in a fair and impartial manner and without unfair discrimination as  
 12 between individuals examined.

13 (3) The commissioner~~executive director~~ may require a reasonable waiting period  
 14 before reexamination of an applicant who has failed to pass a previous examination  
 15 covering the same line of authority.

16 ➔Section 1059. KRS 304.9-200 is amended to read as follows:

17 (1) The license issued under this subtitle or to a surplus lines broker, life settlement  
 18 broker, or life settlement provider shall contain the licensee's name, city and state of  
 19 principal place of business address, personal identification number, and the date of  
 20 issuance, the lines of authority, and any other information the  
 21 commissioner~~executive director~~ deems necessary.

22 (2) The licensee shall inform the commissioner~~executive director~~ in writing in a  
 23 format acceptable to the commissioner~~executive director~~ of a change of address or  
 24 change of legal name within thirty (30) days of the change.

25 (3) After completion of application for a license, completion of any prelicensing  
 26 education required under this chapter, payment of applicable fees, and the taking  
 27 and passing of any examination required under this chapter, the

1 commissioner~~[executive director]~~ shall promptly consider the application. If the  
 2 commissioner~~[executive director]~~ finds that the applicant has fully met the  
 3 requirements for licensure, the commissioner~~[executive director]~~ shall promptly  
 4 issue the license to the applicant; otherwise, the commissioner~~[executive director]~~  
 5 shall refuse to issue the license and promptly notify the applicant of the refusal,  
 6 stating the grounds thereof.

7 (4) If a license is refused, the executive director shall promptly refund any appointment  
 8 fee tendered with the license application. All other fees for application for license or  
 9 examination shall be deemed earned when paid and shall not be refundable.

10 (5) In order to assist in the performance of the commissioner's~~[executive director's]~~  
 11 duties, the commissioner~~[executive director]~~ may contract with nongovernmental  
 12 entities, including the National Association of Insurance Commissioners or its  
 13 affiliate or subsidiary, to perform ministerial functions, including the collection of  
 14 fees or data related to licensing.

15 ➔Section 1060. KRS 304.9-230 is amended to read as follows:

16 (1) The commissioner~~[executive director]~~ may issue, in accordance with KRS 304.9-  
 17 080, an agent's license with the limited line of authority as follows:

- 18 (a) Surety;
- 19 (b) Travel;
- 20 (c) Limited line credit;
- 21 (d) Crop; and
- 22 (e) Other limited lines, as specified by the commissioner~~[executive director]~~  
 23 through the promulgation of administrative regulations.

24 (2) The commissioner~~[executive director]~~ shall promulgate administrative regulations  
 25 to establish the requirements, if any, for prelicensing courses of instruction and  
 26 examination for each limited line of authority.

27 (3) On and after July 15, 2002, the commissioner~~[executive director]~~ shall not issue an



1 agent license with a limited line of authority for motor vehicle physical damage or  
 2 for mechanical breakdown insurance. However, an agent license with a limited line  
 3 of authority for motor vehicle physical damage or for mechanical breakdown  
 4 insurance in effect on July 15, 2002, shall continue in effect until surrendered or  
 5 otherwise terminated in accordance with this subtitle.

6 ➔Section 1061. KRS 304.9-240 is amended to read as follows:

7 (1) A licensed agent may solicit for and issue personal travel accident insurance  
 8 policies by means of mechanical vending machines supervised by the agent and  
 9 placed at airports and similar places of convenience to the traveling public, if the  
 10 commissioner~~executive director~~ finds that:

11 (a) The policy provides reasonable coverage and benefits, is suitable for sale and  
 12 issuance by vending machine, and that use of such a machine in a proposed  
 13 location would be of material convenience to the public;

14 (b) The type of machine proposed to be used is reasonably suitable for the  
 15 purpose;

16 (c) Reasonable means are provided for informing prospective purchasers of  
 17 policy coverages and restrictions;

18 (d) Reasonable means are provided for the refund of money inserted in defective  
 19 machines and for which insurance so paid for is not received; and

20 (e) The cost of maintaining such a machine at a particular location is reasonable  
 21 in amount.

22 (2) For each machine to be used, the commissioner~~executive director~~ shall issue to  
 23 the agent upon his or her application a special vending machine license. The license  
 24 shall specify the name and address of the insurer and agent, the name of the policy  
 25 to be sold, the serial number and operating location of the machine. The license  
 26 shall be subject to annual continuation, to expiration, suspension or revocation  
 27 coincidentally with that of the agent. The commissioner~~executive director~~ shall

1 also revoke the license of any machine as to which he or she finds that the license  
 2 qualifications no longer exist. The license fee shall be the same as specified in KRS  
 3 304.4-010, for an agent, for each license year or part thereof for each respective  
 4 machine. Proof of the existence of a subsisting license shall be displayed on or  
 5 about each machine in use, in such manner as the commissioner~~[executive director]~~  
 6 reasonably requires.

7 ➔Section 1062. KRS 304.9-260 is amended to read as follows:

8 (1) Each license issued under this subtitle, surplus lines broker license, life settlement  
 9 broker license, and life settlement provider license shall continue in force until  
 10 expired, suspended, revoked, or otherwise terminated. License renewal fees shall be  
 11 received on or before the applicable due date for the license as stated in KRS 304.4-  
 12 010. Beginning January 1, 2003, request for renewal shall be on a form or in a  
 13 format prescribed by the commissioner~~[executive director]~~ and made as follows:

14 (a) At least thirty (30) days before the renewal request and fees are due from the  
 15 licensee, the office shall make available to each respective licensee a list of his  
 16 or her licenses to be renewed during that calendar year. With the licensee's  
 17 written consent, an insurer or the licensee's employer may request that the  
 18 department~~[office]~~ send the renewal list to the insurer or to the employer. The  
 19 department~~[office]~~ may distribute the renewal list to the requesting insurer or  
 20 employer instead of to the licensee;

21 (b) Beginning January 31, 2006, in conjunction with license renewal, an  
 22 individual holding a resident license for agent, rental vehicle managing  
 23 employee, and life settlement broker shall show proof of compliance with  
 24 continuing education pursuant to KRS 304.9-295. An individual licensee  
 25 whose birth date is in an even-numbered year shall submit the renewal  
 26 request, continuing education course completion documentation pursuant to  
 27 KRS 304.9-295, and fees to the commissioner~~[executive director]~~ by the last

1 day of the licensee's birth month in the next even-numbered year after the date  
 2 the license is issued, and each subsequent even-numbered year thereafter;

3 (c) Beginning January 31, 2006, in conjunction with license renewal, an  
 4 individual holding a resident license for agent, rental vehicle managing  
 5 employee, and life settlement broker shall show proof of compliance with  
 6 continuing education pursuant to KRS 304.9-295. An individual licensee  
 7 whose birth date is in an odd-numbered year shall submit the renewal request,  
 8 continuing education course completion documentation pursuant to KRS  
 9 304.9-295, and fees to the commissioner~~executive director~~ by the last day of  
 10 the licensee's birth month in the next odd-numbered year after the date the  
 11 license is issued, and each subsequent odd-numbered year thereafter;

12 (d) A business entity that is issued a license in an even-numbered year shall  
 13 submit the renewal request and fees to the commissioner~~executive director~~  
 14 by March 31 of the next even-numbered year, and each subsequent even-  
 15 numbered year thereafter; and

16 (e) A business entity that is issued a license in an odd-numbered year shall submit  
 17 the renewal request and fees to the commissioner~~executive director~~ by  
 18 March 31 of the next odd-numbered year, and each subsequent odd-numbered  
 19 year thereafter.

20 (2) (a) Any license referred to in subsection (1) of this section for which the request  
 21 for renewal, any required continuing education course completion  
 22 documentation, if applicable, and fee are not received by the  
 23 commissioner~~executive director~~ shall be deemed to have expired at  
 24 midnight on the last day of the birth month for individuals and on March 31  
 25 for business entities;

26 (b) Any renewal request and fees received by the commissioner~~executive~~  
 27 ~~director~~ within thirty (30) days after the expiration date may be accepted with

- 1 no penalty or interruption in license;
- 2 (c) Any renewal request and fees received by the commissioner~~executive~~  
 3 ~~director~~ after thirty (30) days from the date of expiration, but within sixty  
 4 (60) days after the date of expiration, may be accepted with no interruption in  
 5 license if accompanied by a penalty as provided in Subtitle 99 of this chapter;  
 6 and
- 7 (d) Completion of the required continuing education course, if applicable, shall be  
 8 on or before the expiration date, which is deemed as the last day of the birth  
 9 month of the licensee during the applicable odd or even year on a biennial  
 10 basis. Proof of compliance shall be received by the commissioner~~executive~~  
 11 ~~director~~ within sixty (60) days after the expiration date.
- 12 (3) A licensee who is unable to comply with license renewal procedures due to military  
 13 service, long-term medical disability, or some other extenuating circumstance may  
 14 make a written request for a waiver of those procedures. The licensee may also  
 15 make a written request for a waiver of any examination requirement, fine, or other  
 16 sanction imposed for failure to comply with these renewal procedures.
- 17 (4) As a condition to or in connection with the continuation of any insurance producer  
 18 license, the commissioner~~executive director~~ may require the licensee to file with  
 19 him or her information relative to use made of the license during the next preceding  
 20 calendar year and especially as to whether the license has been used principally for  
 21 the writing of controlled business, as defined in KRS 304.9-100.
- 22 (5) As a condition to or in connection with the continuation of any license, the  
 23 commissioner~~executive director~~ shall require continuous demonstration of  
 24 continuing education course completion to sustain the license, and any license shall  
 25 terminate and be surrendered to the commissioner~~executive director~~ if and when  
 26 the demonstration becomes impaired.
- 27 (6) This section does not apply to temporary licenses issued under KRS 304.9-300, and

licensees not licensed for one (1) full year prior to the end of the applicable biennial renewal year.

➔Section 1063. KRS 304.9-270 is amended to read as follows:

- (1) Each insurer appointing an agent, including managing general agent, rental vehicle agent, rental vehicle managing employee, specialty credit producer, and specialty credit managing employee, in this state shall obtain approval of the appointment from the commissioner~~[executive—director]~~ by filing with the commissioner~~[executive director]~~ the notice of appointment, specifying the lines of authority to be transacted by the agent for the insurer, and submit the appointment fee, as specified in KRS 304.4-010. Each insurer shall notify the commissioner~~[executive director]~~ of additional lines of authority for which a licensee is deemed authorized to transact business, after the initial appointment, in a format prescribed by the commissioner~~[executive director]~~.
- (2) Prior to appointment, the insurer shall satisfy itself through investigation that the named applicant has not been convicted of any felony offense involving dishonesty or a breach of trust and has not been convicted of a fraudulent insurance act under Subtitle 47 of this chapter, unless the named applicant has received written consent from the commissioner~~[executive director]~~ that specifically refers to KRS 304.47-025(3).
- (3) No agent shall claim to be an agent or representative of, or in any way imply a contractual relationship with, a particular insurer, or place applications for insurance with an insurer unless the agent becomes an appointed agent of the insurer and the agent's appointment has been approved by the commissioner~~[executive director]~~.
- (4) An agent may act as a representative of and place insurance with an insurer without first obtaining approval of the appointment by the commissioner~~[executive director]~~ for a period of fifteen (15) days from the date the first insurance application is executed by the agent. If the agent does not obtain confirmation that the agent's

1 appointment has been approved by the commissioner~~[executive director]~~ within  
 2 fifteen (15) days from the date the first insurance application is executed, the agent  
 3 shall immediately discontinue acting as an agent on behalf of the insurer until  
 4 confirmation is received.

5 (5) (a) The insurer shall, no later than fifteen (15) days from the date the agent  
 6 contract is executed or the first insurance application is submitted by an agent,  
 7 whichever is earlier, file with the commissioner~~[executive director]~~ a notice  
 8 of appointment on a form or in a format prescribed by the  
 9 commissioner~~[executive director]~~.

10 (b) If there is no executed agent contract, the insurer shall also mail to the agent,  
 11 within the same fifteen (15) day period specified in paragraph (a) of this  
 12 subsection, a copy of the notice of appointment form filed with the  
 13 commissioner~~[executive director]~~.

14 (6) Within fifteen (15) days of receipt of the notice of appointment, the  
 15 commissioner~~[executive director]~~ shall determine and notify the insurer whether the  
 16 agent is eligible for appointment. If the agent's license is in good standing and no  
 17 other grounds exist to deny the appointment, the commissioner~~[executive director]~~  
 18 shall approve the appointment.

19 (7) Subject to renewal by the insurer as provided in subsection (8) of this section, each  
 20 appointment shall remain in effect until the earliest of the following:

21 (a) The commissioner~~[executive director]~~ revokes or otherwise terminates the  
 22 insurance producer's license;

23 (b) The commissioner~~[executive director]~~ suspends, revokes, or otherwise  
 24 terminates the appointment; or

25 (c) The insurer terminates the appointment as provided in KRS 304.9-280.

26 (8) Biennially, before January 31, the department~~[office]~~ shall distribute to each insurer  
 27 a listing of the names and individual identification numbers of that insurer's agents

1 whose appointments were in effect during the preceding calendar year and who  
 2 were not terminated on or prior to December 31 of that calendar year. Any  
 3 appointment not expressly terminated shall remain in effect as to the lines of  
 4 authority thereof for which the respective agents are currently appointed, and  
 5 subject to the fees specified under KRS 304.4-010. On or before March 31, each  
 6 insurer shall submit the renewal of appointment fee as specified in KRS 304.4-010  
 7 for each appointment not terminated on or prior to December 31 of the preceding  
 8 calendar year.

- 9 (9) Any appointment as to which the request for renewal and fees are not received by  
 10 the commissioner~~executive director~~ by March 31 shall be deemed to have expired  
 11 at midnight on March 31. Any appointment renewal request and fees received by  
 12 the commissioner~~executive director~~ after March 31 and prior to the next  
 13 following June 30 may be accepted by the commissioner~~executive director~~, in his  
 14 or her discretion, and the expired appointment may be reinstated as of March 31 if  
 15 the late request and fees are accompanied by a penalty as provided in KRS 304.99-  
 16 100.

17 ➔Section 1064. KRS 304.9-280 is amended to read as follows:

- 18 (1) Subject to the agent contract rights of a rental vehicle agent, rental vehicle  
 19 managing employee, specialty credit producer, specialty credit managing employee,  
 20 managing general agent, or agent, if any, an insurer may terminate an appointment  
 21 at any time. However, if any appointment is not terminated on or prior to December  
 22 31, then on January 1 the fees designated shall be due for submission as provided in  
 23 KRS 304.9-270.
- 24 (2) An insurer or authorized representative of the insurer that terminates the  
 25 appointment, employment, contract, or other insurance business relationship with a  
 26 licensee shall notify the commissioner~~executive director~~ within thirty (30) days  
 27 following the effective date of the termination, using a form or a format prescribed

1 by the commissioner~~[executive director]~~, if the reason for termination is one (1) of  
 2 the reasons set forth in KRS 304.9-440 or if the insurer has knowledge the licensee  
 3 was found by a court, government body, or self-regulatory organization authorized  
 4 by law to have engaged in any of the activities in KRS 304.9-440. Termination  
 5 under this subsection shall be deemed termination for cause. Upon the written  
 6 request of the commissioner~~[executive director]~~ the insurer shall provide additional  
 7 information, documents, records, or other data pertaining to the termination or  
 8 activity of the licensee.

9 (3) An insurer or authorized representative of the insurer that terminates the  
 10 appointment of a licensee for any reason not set forth in subsection (2) of this  
 11 section, shall notify the commissioner~~[executive director]~~ within thirty (30) days  
 12 following the effective date of the termination, using a form or a format prescribed  
 13 by the commissioner~~[executive director]~~. Termination under this subsection shall  
 14 be deemed termination for cause. Upon written request of the  
 15 commissioner~~[executive director]~~, the insurer shall provide additional information,  
 16 documents, records, or other data pertaining to the termination.

17 (4) The insurer or the authorized representative of the insurer shall promptly notify the  
 18 commissioner~~[executive director]~~ in a form or a format acceptable to the  
 19 commissioner~~[executive director]~~ if, upon further review or investigation, the  
 20 insurer discovers additional information that would have been reportable to the  
 21 commissioner~~[executive director]~~ in accordance with subsection (2) of this section  
 22 had the insurer known of its existence.

23 (5) (a) Within fifteen (15) days after making the notification required for termination  
 24 without cause, the insurer shall mail a notice of the termination to the licensee  
 25 at his or her last known address by first-class mail. The notice of termination  
 26 shall include and indicate the reasons for termination provided to the  
 27 commissioner~~[executive director]~~.



1 (b) Within fifteen (15) days after making the notification required for termination  
 2 for cause, the insurer shall provide a copy of the form to the licensee at his or  
 3 her last known address by certified mail, return receipt requested, postage  
 4 prepaid, or by overnight delivery using a nationally recognized carrier.

5 (c) Within thirty (30) days after the licensee has received a copy of the form, the  
 6 licensee may file written comments concerning the substance of the  
 7 notification with the commissioner~~[executive director]~~. The licensee shall, by  
 8 the same means, simultaneously send a copy of the comments to the reporting  
 9 insurer, and the comments shall become a part of the  
 10 commissioner's~~[executive director's]~~ file and accompany every copy of a  
 11 report distributed or disclosed for any reason about the licensee as permitted  
 12 under subsection (7)(c) of this section.

13 (6) (a) 1. In the absence of actual malice, an insurer, the authorized representative  
 14 of the insurer, a licensee, the commissioner~~[executive director]~~, or their  
 15 respective representatives or employees, or an organization of which the  
 16 commissioner~~[executive director]~~ is a member and that compiles the  
 17 information and makes it available to other insurance commissioners or  
 18 regulatory or law enforcement agencies, shall not be subject to civil  
 19 liability, and a civil cause of action of any nature shall not arise against  
 20 these individuals, entities, or their respective representatives or  
 21 employees as a result of:

- 22 a. Any statement or information required by or provided in
- 23 accordance with this section;
- 24 b. Any information relating to any statement that may be requested in
- 25 writing from an insurer or licensee by the commissioner~~[executive~~
- 26 ~~director]~~; or
- 27 c. A statement by a terminating insurer or licensee to an insurer or

licensee that is limited solely and exclusively to whether a termination for cause under subsection (2) of this section was reported to the commissioner~~[executive director]~~.

2. The propriety of any termination for cause under subsection (2) of this section shall be certified in writing by an officer or authorized representative of the insurer or licensee terminating the relationship.

(b) In any action brought against an individual, business entity, or organization that may have immunity under paragraph (a) of this subsection for making any statement required by this section or providing any information relating to any statement that may be requested by the commissioner~~[executive director]~~, the party bringing the action shall plead specifically in any allegation that paragraph (a) of this subsection does not apply because the individual, business entity, or organization making the statement, or providing the information did so with actual malice.

(c) Paragraph (a) or (b) of this subsection shall not abrogate or modify any existing statutory or common law privileges or immunities.

(7) (a) 1. Any document, material, or other information in the control or possession of the department~~[office]~~ that is furnished by an insurer, licensee, or an employee or representative acting on behalf of the insurer or licensee, or obtained by the commissioner~~[executive director]~~ in an investigation in accordance with this section:

- a. Shall be confidential by law and privileged;
- b. Shall not be subject to subpoena; or
- c. Shall not be subject to discovery or admissible in evidence in any private civil action.

Notwithstanding subdivisions a., b., and c. of this subparagraph, any document, material, or other information that is furnished by an insurer,

licensee, or an employee or representative acting on behalf of the insurer or licensee, or obtained by the commissioner~~[executive director]~~ in an investigation in accordance with this section, that is used in a formal administrative proceeding or enforcement action in accordance with KRS Chapter 13B shall be subject to the Kentucky Open Records Act.

2. However, the commissioner~~[executive director]~~ is authorized to use the documents, materials, or other information referred to in paragraph (a)1. of this subsection in the furtherance of any regulatory or legal action brought to carry out the commissioner's~~[executive director's]~~ duties.

(b) Neither the commissioner~~[executive director]~~ nor any individual who received documents, materials, or other information while acting under the authority of the commissioner~~[executive director]~~, shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to paragraph (a) of this subsection.

(c) In order to assist in the performance of the commissioner's~~[executive director's]~~ duties, the commissioner~~[executive director]~~:

1. May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to paragraph (a) of this subsection, with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates, or subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the documents, materials, or other information;
2. May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from

1 the National Association of Insurance Commissioners, its affiliates or  
 2 subsidiaries, and from regulatory and law enforcement officials of other  
 3 foreign or domestic jurisdictions, and shall maintain as confidential or  
 4 privileged any documents, materials, or information received with notice  
 5 or the understanding that it is confidential or privileged under the laws  
 6 of the jurisdiction that is the source of the documents, materials, or  
 7 information; and

8 3. May enter into agreements governing sharing and use of information  
 9 consistent with this subsection.

10 (d) No waiver of any applicable privilege or claim of confidentiality in the  
 11 documents, materials, or information shall occur as a result of disclosure to  
 12 the commissioner~~[executive director]~~ or of sharing as authorized in this  
 13 subsection.

14 (e) The commissioner~~[executive director]~~ shall release only final, adjudicated  
 15 actions including for-cause terminations that are open to public inspection in  
 16 accordance with the Kentucky Open Records Act, KRS 61.870 to 61.884, to a  
 17 database or other clearinghouse service maintained by the National  
 18 Association of Insurance Commissioners, its affiliates, or subsidiaries.

19 (f) As part of the nonresident license certification process, the department~~[office]~~  
 20 shall release only final adjudicated actions on licensees identified in  
 21 subsection (1) of this section.

22 ➔Section 1065. KRS 304.9-295 is amended to read as follows:

23 (1) This section shall apply to individuals who hold licenses or lines of authority  
 24 requiring continuing education each biennium.

25 (2) Beginning January 31, 2006, the continuing education biennial compliance date for  
 26 an individual resident licensee shall be as follows:

27 (a) A licensee whose birth date is in an even-numbered year shall satisfy

continuing education requirements on or before the last day of the licensee's birth month in the even-numbered year. A licensee shall show proof of compliance to the commissioner~~executive director~~ within sixty (60) days after the continuing education biennial compliance date. If the licensee has not held the license for one (1) year, the compliance date is adjusted to the next even-numbered year and each subsequent even-numbered year thereafter. If the license becomes inactive and reissued within a twelve (12) month period, the compliance date shall remain the same;

(b) A licensee whose birth date is in an odd-numbered year shall satisfy continuing education requirements and show proof of compliance to the commissioner~~executive director~~ on or before the last day of the licensee's birth month in the odd-numbered year. A licensee shall show proof of compliance to the commissioner~~executive director~~ within sixty (60) days after the continuing education biennial compliance date. If the licensee has not held the license for one (1) year, the compliance date is adjusted to the next odd-numbered year and each subsequent odd-numbered year thereafter. If the license becomes inactive and reissued within a twelve (12) month period, the compliance date shall remain the same.

(3) This section shall not apply to:

(a) Limited lines of authority under agent licenses, as exempted by the commissioner~~executive director~~ in accordance with KRS 304.9-230;

(b) Licensees not licensed for one (1) full year prior to the end of the applicable continuing education biennium;

(c) Licensees holding nonresident licenses who have met the continuing education requirements of their home state and whose home state gives credit to Kentucky resident licensees on the same basis; or

(d) Licensees maintaining their licenses for the sole purpose of receiving renewals

1 or deferred commissions and providing the department~~[office]~~ with a  
2 supporting affidavit.

3 (4) A licensee, who holds an agent license and who is not exempt under subsection (3)  
4 of this section, shall satisfactorily complete a minimum of twenty-four (24) hours of  
5 continuing education courses, of which twelve (12) shall be classroom hours and  
6 three (3) hours shall have a course concentration in ethics, during each continuing  
7 education biennium.

8 (5) Only continuing education courses approved by the commissioner~~[executive~~  
9 ~~director]~~ shall be used to satisfy the continuing education requirement of subsection  
10 (4) of this section and any other continuing education requirement of this chapter.

11 (a) The continuing education courses which meet the commissioner's~~[executive~~  
12 ~~director's]~~ standards for continuing education requirements are:

- 13 1. Any part of the Life Underwriter Training Council life course  
14 curriculum;
- 15 2. Any part of the Life Underwriter Training Council health course  
16 curriculum;
- 17 3. Any part of the American College Chartered Life Underwriter diploma  
18 curriculum;
- 19 4. Any part of the American Institute for Property and Liability  
20 Underwriters' chartered property and casualty underwriter profession  
21 designation program;
- 22 5. Any part of the Insurance Institute of America's programs;
- 23 6. Any part of the certified insurance counselor program;
- 24 7. Any insurance related course taught at an accredited college or  
25 university, if the course is approved by the commissioner~~[executive~~  
26 ~~director]~~;
- 27 8. Any course of instruction or seminar developed or sponsored by any

1 authorized insurer, recognized agent association, recognized insurance  
 2 trade association, or any independent program of instruction, if approved  
 3 by the commissioner~~[executive director]~~;

4 9. Any correspondence course approved by the commissioner~~[executive~~  
 5 ~~director]~~; and

6 10. Any course in accordance with provisions of reciprocal agreements the  
 7 commissioner~~[executive director]~~ enters with other states.

8 (b) The commissioner~~[executive director]~~ shall prescribe the number of hours of  
 9 continuing education credit for each continuing education course approved in  
 10 accordance with this subsection. Continuing education courses submitted in  
 11 accordance with a reciprocal agreement shall be approved according to the  
 12 provisions of the reciprocal agreement.

13 (c) If a continuing education course requires successful completion of a written  
 14 examination, no continuing education credit shall be given to licensees who  
 15 do not successfully complete the written examination.

16 (d) The fee for filing continuing education courses for approval by the  
 17 commissioner~~[executive director]~~ shall be as specified in Subtitle 4 of KRS  
 18 Chapter 304.

19 (e) For continuing education courses of reciprocal states, continuing education  
 20 providers shall be approved in accordance with the provisions of the  
 21 reciprocal agreements.

22 (6) An individual teaching any approved continuing education course shall qualify for  
 23 the same number of hours of continuing education credit as would be granted to a  
 24 licensee taking and satisfactorily completing the course.

25 (7) Excess credit hours accumulated during any continuing education biennium may be  
 26 carried forward. The commissioner~~[executive director]~~ may, by regulation, limit the  
 27 number of hours carried forward.

- 1 (8) For good cause shown, the commissioner~~[executive director]~~ may grant an  
 2 extension of time during which the continuing education requirement of subsection  
 3 (3) of this section may be completed, but the extension of time shall not exceed two  
 4 (2) years. What constitutes good cause for the extension of time rests within the  
 5 discretion of the commissioner~~[executive director]~~.
- 6 (9) Every licensee subject to this section shall furnish to the commissioner~~[executive~~  
 7 ~~director]~~ written certification as to the continuing education courses satisfactorily  
 8 completed by the licensee. The certification shall be signed by or on behalf of the  
 9 provider sponsoring the continuing education course. The certification shall be on a  
 10 form prescribed by the commissioner~~[executive director]~~.
- 11 (10) The provider shall furnish to the commissioner~~[executive director]~~ certification as  
 12 to the continuing education courses satisfactorily completed by each licensee. The  
 13 certification shall be signed or authenticated by or on behalf of the provider  
 14 sponsoring the continuing education course. The certification shall be on a form or  
 15 in a format prescribed by the commissioner~~[executive director]~~.
- 16 (11) The license or line of authority requiring continuing education shall terminate if the  
 17 individual holding the license or line of authority fails to comply with the  
 18 continuing education requirement and has not been granted an extension of time to  
 19 comply in accordance with subsection (8) of this section. If the license has  
 20 terminated, the license shall be promptly surrendered to the  
 21 commissioner~~[executive director]~~ without demand. If the line of authority has  
 22 terminated but another line of authority not requiring continuing education is still in  
 23 effect, the license shall be promptly delivered to the commissioner~~[executive~~  
 24 ~~director]~~ for reissuance as to the line of authority still in effect.
- 25 (12) The license of any individual subject to the continuing education requirement shall  
 26 be suspended or revoked, a civil penalty imposed, or both, in accordance with KRS  
 27 304.9-440, if the individual submits to the commissioner~~[executive director]~~ a false



or fraudulent certificate of compliance with the continuing education requirement.

(13) (a) The commissioner~~{executive-director}~~ may withdraw approval of a continuing education provider, course, or instructor for good and just cause.

(b) In addition to or in lieu of withdrawal of approval, the commissioner~~{executive-director}~~ may impose a civil penalty of not more than one thousand dollars (\$1,000) per violation of this chapter by a provider or an instructor.

→ Section 1066. KRS 304.9-300 is amended to read as follows:

(1) The commissioner~~{executive-director}~~ may issue a temporary license for a period not to exceed one hundred eighty (180) days without requiring an examination or prelicensing course of study if the commissioner~~{executive-director}~~ deems that a temporary license is necessary for the servicing of an insurance business in the following cases:

(a) To the surviving spouse or court-appointed personal representative of a licensed agent who dies or becomes mentally or physically disabled, to allow adequate time for the:

1. Sale of the insurance business owned by the agent;
2. Recovery or return of the agent to the business; or
3. Training and licensing of new personnel to operate the agent's business.

(b) To a member or employee of a business entity licensed as an agent, upon the death or disability of the sole individual designated in the business entity application or the license.

(c) To the designee of a licensed agent entering upon active service in the Armed Forces of the United States.

(d) In any other circumstance where the commissioner~~{executive-director}~~ deems that the public interest will best be served by the issuance of this license.

(2) In addition to the restrictions on temporary licenses set forth in KRS 304.9-310, the

1 commissioner~~[executive director]~~ may, by order, limit the authority of any  
2 temporary licensee in any way deemed necessary to protect insureds and the public.

3 The commissioner~~[executive director]~~ may require the temporary licensee to have a  
4 suitable sponsor who is a licensed agent or insurer and who assumes responsibility  
5 for all acts of the temporary licensee, and may impose other similar requirements  
6 designed to protect insureds and the public. The commissioner~~[executive director]~~  
7 may, by order, revoke a temporary license if the interests of insureds or the public  
8 are endangered. A temporary license shall not continue after the owner or the  
9 personal representative disposes of the business.

- 10 (3) Application for a temporary license shall be filed with the commissioner~~[executive~~  
11 ~~director]~~ in the form and containing the information as the commissioner~~[executive~~  
12 ~~director]~~ may reasonably require, and be accompanied by the application fee as  
13 specified in KRS 304.4-010.

14 ➔Section 1067. KRS 304.9-320 is amended to read as follows:

15 For the protection of the people of this Commonwealth the commissioner~~[executive~~  
16 ~~director]~~ shall not issue, continue, or permit to exist any license as consultant except in  
17 compliance with this subtitle, or as to any person not qualified therefor as follows:

- 18 (1) If an individual, the applicant:

- 19 (a) Must be eighteen (18) or more years of age;  
20 (b) Must have had not less than five (5) years of actual experience as a licensed  
21 agent with respect to the kinds of insurance and contracts to be covered by the  
22 license, or other special experience, education or training, all of sufficient  
23 content and duration reasonably necessary for competence in fulfilling the  
24 responsibilities of a consultant;  
25 (c) Must have a thorough knowledge of insurance and annuity contracts of the  
26 kinds proposed to be covered under the license;  
27 (d) Must satisfy the commissioner~~[executive director]~~ by written examination;

1 (e) Must be competent, trustworthy under highest fiduciary standards, financially  
2 responsible, and of good personal and business reputation; and

3 (f) Must have filed the bond required by KRS 304.9-330.

4 (2) If a business entity, the applicant:

5 (a) Must complete and submit a National Association of Insurance  
6 Commissioners uniform license application;

7 (b) Must pay applicable fees as set forth in KRS 304.4-010;

8 (c) Must be competent, trustworthy under the highest fiduciary standards,  
9 financially responsible, and of good business reputation; and

10 (d) Must designate each individual authorized to act for the business entity under  
11 its consultant license in accordance with KRS 304.9-133.

12 (3) A consultant license shall cover either or both of the following categories, as  
13 selected by the licensee:

14 (a) Property and casualty; or

15 (b) Life and health.

16 A consultant licensed in both categories shall qualify separately for, and be licensed  
17 in, each category.

18 ➔Section 1068. KRS 304.9-330 is amended to read as follows:

19 (1) To the extent the Gramm-Leach-Bliley Act, 15 U.S.C. sec. 6751(f), provides that  
20 evidence of financial responsibility may be required for licensing, every applicant  
21 for license as a consultant shall file with the commissioner~~[executive director]~~ with  
22 his or her application for license, and shall maintain in effect while so licensed:

23 (a) The certificate of an insurer authorized to write legal liability insurance in this  
24 state, that the insurer has and will keep in effect on behalf of the consultant a  
25 policy of insurance covering the legal liability of the consultant as the result of  
26 erroneous acts or failure to act in his or her capacity as an insurance  
27 consultant, and inuring to the benefit of any aggrieved party as the result of

any single occurrence in the sum of not less than twenty thousand dollars (\$20,000) and one hundred thousand dollars (\$100,000) in the aggregate for all occurrences within one (1) year, and that the policy shall not be terminated unless at least thirty (30) days prior written notice will have been given to the commissioner~~[executive director]~~; or

(b) A deposit with the commissioner~~[executive director]~~ of cash, or a cash surety bond executed by an insurer authorized to write this business in this Commonwealth, in the sum of twenty thousand dollars (\$20,000) which shall be subject to lawful levy of execution by any party to whom the consultant has been found to be legally liable as the result of erroneous acts or failure to act in his or her capacity as a consultant.

(2) The bond shall indemnify any person damaged by any fraudulent or unlawful act or conduct of the licensee in transactions under the license, and shall likewise be conditioned upon faithful accounting and application of all moneys coming into the licensee's possession in connection with his or her activities as the licensee.

(3) The bond shall remain in force until released by the commissioner~~[executive director]~~, or until canceled by the surety. Without prejudice to any liability previously incurred thereunder, the surety may cancel the bond upon thirty (30) days advance written notice to the licensee and the commissioner~~[executive director]~~.

➔Section 1069. KRS 304.9-350 is amended to read as follows:

(1) A consultant who is also licensed as an agent shall not, directly or indirectly, receive or share in both a fee and other compensation paid, directly or indirectly, from an insured or any insurer with respect to any insurance or annuity contract procured, renewed, continued, modified, terminated, or otherwise disposed of pursuant to any recommendation given or transaction engaged in by the licensee under this license or any license issued under this code.

(2) (a) If the licensee has received or is to receive any fee, commission, or

1 compensation from the insured or proposed insured, or from any other person  
 2 other than the insurer, directly or indirectly, with respect to any insurance  
 3 transaction or proposed insurance transaction, or with respect to any insurance  
 4 or annuity contract existing or proposed, it shall conclusively be presumed  
 5 that the licensee was acting as a consultant with respect to such transaction or  
 6 contract.

7 (b) An individual or business entity dually licensed as a consultant and an agent  
 8 shall not sell, solicit, or negotiate insurance, or otherwise act as an agent,  
 9 either directly or indirectly, with respect to the insurance risk of the insured or  
 10 prospective insured that was the subject of a written consulting contract  
 11 required by subsection (4) of this section:

- 12 1. During the term of the written consulting contract; or
- 13 2. Within twelve (12) months after the expiration of the consulting  
 14 contract, but no less than twenty-four (24) months from the inception  
 15 of the contract.

16 (c) An agent who has a financial or business ownership interest or affiliation with  
 17 the consultant acting as such pursuant to a written consulting contract required  
 18 by subsection (4) of this section shall not sell, solicit, or negotiate insurance,  
 19 either directly or indirectly, with respect to the insurance risk of the insured or  
 20 prospective insured that was the subject of a consulting contract:

- 21 1. During the term of the written consulting contract; or
- 22 2. Within twelve (12) months after the expiration of the consulting  
 23 contract, but no less than twenty-four (24) months from the inception  
 24 of the contract.

25 (d) Consulting fees paid to a consultant pursuant to a written contract in  
 26 compliance with subsection (4) of this section may be shared between a  
 27 business entity licensed as a consultant and an individual who is licensed as a

1 consultant and is an owner, officer, partner, member, or employee of the  
2 business entity.

3 (3) No person licensed as a consultant under this section may receive any fee,  
4 commission or thing of value for examining, appraising, reviewing or evaluating  
5 any insurance policy, bond, annuity or pension or profit-sharing contract, plan or  
6 program or for making recommendation or giving advice with regard to any of the  
7 above, unless such compensation is based upon a prior written contract as provided  
8 in subsection (4) of this section.

9 (4) Prior to the provision of consultant's services, a person licensed as a consultant  
10 under this section shall disclose the following in a written contract signed by the  
11 party to be charged:

12 (a) The services to be provided by the consultant to the insured and prospective  
13 insured;

14 (b) The beginning and ending date of the agreement;

15 (c) Any insurance to which the contract for consultant's services applies;

16 (d) The arrangement for compensation of the consultant, whether by a flat rate,  
17 hourly rate, or otherwise;

18 (e) Whether the consultant is dually licensed as an agent; and

19 (f) Whether the consultant has a financial or business ownership interest in or  
20 affiliation with, or controls in whole or in part, any business entity or insurer.

21 A copy of every contract shall be retained by the consultant for not less than five (5)  
22 years after expiration of the contract.

23 (5) No person licensed as a consultant may receive any compensation, direct or indirect,  
24 as a result of:

25 (a) The sale of insurance or annuities to; or

26 (b) The use of securities or trusts in connection with pensions for any person to  
27 whom any such licensee has performed any related consulting service for

1           which he has received a fee or contracted to receive a fee within the preceding  
 2           twelve (12) months unless such compensation is provided for in the written  
 3           contract required by subsection (4) of this section.

4   (6) No person licensed as an insurance consultant under this section may be an  
 5       executive in, or employee of, or own stock which gives him a majority interest,  
 6       direct or indirect, in any authorized insurer. No consultant may recommend or  
 7       encourage the purchase of insurance, annuities, or securities from any authorized  
 8       insurer in which any member of his immediate family holds an executive position or  
 9       holds a majority interest.

10   (7) A person dually licensed as a consultant and an agent shall not act as both a  
 11       consultant and an agent with regards to any risk which is the subject of a contract  
 12       required by subsection (4) of this section.

13   (8) Nothing in this section shall prohibit an agent who holds some form of formal  
 14       financial planning certification or designation recognized in administrative  
 15       regulation promulgated by the department~~{office}~~ from receiving a fee for services  
 16       provided under that certification or designation and from receiving a commission  
 17       for the sale, solicitation, or negotiation of life insurance or annuities if:

18       (a) Prior to providing financial planning services, the agent discloses the  
 19           following in a written contract signed by the party to be charged:

- 20           1. The financial planning services for which the fee is to be charged;
- 21           2. The amount of the fee to be charged, including a description of how the  
 22               fee will be determined or calculated; and
- 23           3. That the party to be charged is under no obligation to purchase any  
 24               insurance product through the agent; and

25       (b) Prior to the execution of the written agreement provided for in paragraph (a) of this  
 26       subsection, or solicitation of the sale of a product or service, the agent discloses  
 27       that:

1           1.    He or she is an agent; and

2           2.    A commission for the sale, solicitation, or negotiation of insurance will  
3                be received in addition to a fee for financial planning, if applicable.

4           ➔Section 1070. KRS 304.9-373 is amended to read as follows:

5   Every administrator shall maintain at its administrative office, for the duration of the  
6   written agreement referred to in KRS 304.9-371 and at least five (5) years thereafter,  
7   adequate books and records of all transactions between it, insurers, and insureds. Such  
8   books and records shall be maintained in accordance with prudent standards of insurance  
9   industry recordkeeping. The commissioner~~[executive director]~~ shall have access to such  
10   books and records for the purpose of examination, audit, and inspection. Any trade  
11   secrets contained therein, including but not limited to the identity and addresses of  
12   insureds, shall be confidential except the commissioner~~[executive director]~~ may use such  
13   information in any proceedings instituted against the administrator. An insurer shall retain  
14   the right to continuing access to such books and records of the administrator sufficient to  
15   permit the insurer to fulfill all of its contractual obligations to insureds subject to any  
16   restrictions in the written agreement between the insurer and administrator on the  
17   proprietary rights of the parties in such books and records. Any examination or any part  
18   of the examination of any administrator shall be made by the commissioner~~[executive~~  
19   ~~director]~~ or by examiners designated by the commissioner~~[him]~~ and shall be at the  
20   expense of the administrator examined as specified in Subtitle 2 of this chapter.

21          ➔Section 1071. KRS 304.9-390 is amended to read as follows:

22   (1) Every individual and business entity issued a license with Kentucky as its home  
23       state shall have and maintain in this state a place of business accessible to the  
24       public, and wherein the licensee principally conducts transactions under his or her  
25       license. This provision shall not be deemed to prohibit maintenance of this place of  
26       business in the office of an insurer, office of the employer, or in the residence of the  
27       licensee.



1 (2) The licenses of the licensee shall be conspicuously displayed in each of the places  
2 of business in a part customarily open to the public.

3 (3) The licensee shall keep at his or her place of business complete records of  
4 transactions under the license.

5 (a) The records shall be kept available for inspection by the  
6 commissioner~~executive director~~ for a period of at least five (5) years after  
7 completion of the respective transactions.

8 (b) For an insurance producer, the record shall show, as to each insurance policy  
9 or contract placed by or through the licensee, the names of the insurer and  
10 insured, the number and expiration date of, and premium payable as to, the  
11 policy or contract, and any other information as the commissioner~~executive~~  
12 ~~director~~ may reasonably require.

13 ➔Section 1072. KRS 304.9-410 is amended to read as follows:

14 (1) An agent with a line of authority for property, casualty, or limited line surety  
15 insurance may:

16 (a) Occasionally place an insurance coverage with an insurer as to which he or  
17 she is not then appointed as an agent, and such insurer may accept such  
18 business only when placed through an appointed agent of the insurer. Both  
19 agents involved in this exchange of business must be then licensed as to all of  
20 the kinds of insurance represented by the coverage; and

21 (b) Without limitation, place insurance coverage with an insurer as to which he or  
22 she is not then appointed as agent, and such insurer may accept such business  
23 only if placed through a licensed managing general agent.

24 (2) An agent with a line of authority for life or health insurance may, occasionally,  
25 place with another insurer as to which he or she is not appointed as agent, a  
26 particular risk or portion thereof which has been rejected by the insurers as to which  
27 the agent is appointed or is known to the agent to be unacceptable to such insurers,

1 and without then being appointed as to the other insurer.

- 2 (3) The commissioner~~[executive director]~~ shall, by regulation, establish the amount or  
3 volume of business that constitutes the occasional placement of business permitted  
4 by subsections (1) and (2) of this section. Such regulations may be based on a  
5 percentage or ratio of the agent's business or any other appropriate standard.

6 ➔Section 1073. KRS 304.9-430 is amended to read as follows:

- 7 (1) No individual or business entity shall in this state act as or hold himself or herself  
8 out to be an adjuster unless then licensed by the Kentucky Department~~[Office]~~ of  
9 Insurance as an adjuster. Application for license shall be made to the  
10 commissioner~~[executive director]~~ according to forms as prescribed and furnished  
11 by him or her. The commissioner~~[executive director]~~ shall issue the license as to  
12 applicants qualified upon payment of the license application fee stated in KRS  
13 304.4-010.

- 14 (2) To be licensed as an adjuster the applicant shall:

- 15 (a) Be an individual twenty-one (21) years or more of age;  
16 (b) Be a resident of Kentucky, or resident of another state which will permit  
17 residents of Kentucky to act as adjusters in the other state;  
18 (c) Be an employee of an insurer, a full-time salaried employee of a licensed  
19 adjuster or a graduate of a recognized law school, or have experience or  
20 special education or training as to the handling of loss claims under insurance  
21 contracts of sufficient duration and extent to make him or her reasonably  
22 competent to fulfill the responsibilities of an adjuster;  
23 (d) Be trustworthy and of good reputation;  
24 (e) Have and maintain an office accessible to the public, and keep therein the  
25 usual and customary records pertaining to transactions under the license. This  
26 provision shall not be deemed to prohibit maintenance of the office in the  
27 office of an insurer, of the employer, or in the home of the licensee;

1 (f) Have successfully passed a written examination prescribed by the  
 2 commissioner~~{executive-director}~~, except if the applicant has successfully  
 3 passed a written examination in a state which permits residents of Kentucky to  
 4 act as adjusters in the other state; and

5 (g) Be financially responsible to exercise the license.

6 (3) A business entity, whether or not organized under the laws of this state, may be  
 7 licensed as an adjuster if each individual who is to exercise the license powers is  
 8 designated with the commissioner~~{executive-director}~~ as to the license in  
 9 accordance with KRS 304.9-133.

10 (4) The commissioner~~{executive-director}~~ may require additional information or  
 11 submissions from applicants and may obtain any documents or information  
 12 reasonably necessary to verify the information contained in an application.

13 (5) Notwithstanding the provisions of this section, no adjuster's license or qualifications  
 14 shall be required as to any adjuster who is sent into this state on behalf of an insurer  
 15 for the purpose of investigating or making adjustment of a particular loss under an  
 16 insurance policy, or for the adjustment of a series of losses resulting from a  
 17 catastrophe common to all losses.

18 ➔Section 1074. KRS 304.9-440 is amended to read as follows:

19 (1) The commissioner~~{executive-director}~~ may place on probation, suspend, or may  
 20 impose conditions upon the continuance of a license for not more than twenty-four  
 21 (24) months, revoke, or refuse to issue or renew any license issued under this  
 22 subtitle or any surplus lines broker, life settlement broker, or life settlement  
 23 provider license, or may levy a civil penalty in accordance with KRS 304.99-020, or  
 24 any combination of actions for any one (1) or more of the following causes:

25 (a) Providing incorrect, misleading, incomplete, or materially untrue information  
 26 in the license application;

27 (b) Violating any insurance laws, or violating any administrative regulations,

1 subpoena, or order of the commissioner~~[executive director]~~ or of another  
 2 state's insurance commissioner~~[executive director]~~;

3 (c) Obtaining or attempting to obtain a license through misrepresentation or  
 4 fraud;

5 (d) Improperly withholding, misappropriating, or converting any moneys or  
 6 properties received in the course of doing insurance or the business of life  
 7 settlements;

8 (e) Intentionally misrepresenting the terms of an actual or proposed insurance  
 9 contract, life settlement contract, or application for insurance;

10 (f) Having been convicted of or having pled guilty or nolo contendere to any  
 11 felony;

12 (g) Having admitted or been found to have committed any unfair insurance trade  
 13 practice, insurance fraud, or fraudulent life settlement act;

14 (h) Using fraudulent, coercive, or dishonest practices; or demonstrating  
 15 incompetence, untrustworthiness, or financial irresponsibility; or being a  
 16 source of injury or loss to the public in the conduct of business in this state or  
 17 elsewhere;

18 (i) Having an insurance license, life settlement license, or its equivalent, denied,  
 19 suspended, or revoked in any other state, province, district, or territory;

20 (j) Surrendering or otherwise terminating any license issued by this state or by  
 21 any other jurisdiction, under threat of disciplinary action, denial, or refusal of  
 22 the issuance of or renewal of any other license issued by this state or by any  
 23 other jurisdiction; or revocation or suspension of any other license held by the  
 24 licensee issued by this state or by any other jurisdiction;

25 (k) Forging another's name to an application for insurance, to any other document  
 26 related to an insurance transaction, or to any document related to the business  
 27 of life settlements;

- 1 (l) Cheating, including improperly using notes or any other reference material to
- 2 complete an examination for license;
- 3 (m) Knowingly accepting insurance or life settlement business from an individual
- 4 or business entity who is not licensed, but who is required to be licensed under
- 5 this subtitle;
- 6 (n) Failing to comply with an administrative or court order imposing a child
- 7 support obligation;
- 8 (o) Failing to pay state income tax or to comply with any administrative or court
- 9 order directing payment of state income tax;
- 10 (p) Having been convicted of a misdemeanor for which restitution is ordered in
- 11 excess of three hundred dollars (\$300), or of any misdemeanor involving
- 12 dishonesty, breach of trust, or moral turpitude;
- 13 (q) Failing to no longer meet the requirements for initial licensure;
- 14 (r) If a life settlement provider, demonstrating a pattern of unreasonable
- 15 payments to owners or failing to honor contractual obligations set out in a life
- 16 settlement contract;
- 17 (s) Entering into any life settlement contract or using any form that has not been
- 18 approved pursuant to Subtitle 15 of this chapter;
- 19 (t) If a licensee, having assigned, transferred, or pledged a policy subject to a life
- 20 settlement contract to a person other than a life settlement provider licensed in
- 21 this state, an accredited investor or qualified institutional buyer as defined,
- 22 respectively, in Regulation D, Rule 501 or Rule 144a of the Federal Securities
- 23 Act of 1933, as amended, a financing entity, a special purpose entity, or a
- 24 related provider trust; or
- 25 (u) Any other cause for which issuance of the license could have been refused,
- 26 had it then existed and been known to the commissioner~~[executive director]~~.
- 27 (2) The license of a business entity may be suspended, revoked, or refused for any

1 cause relating to an individual designated in or registered under the license if the  
 2 commissioner~~[executive director]~~ finds that an individual licensee's violation was  
 3 known or should have been known by one (1) or more of the partners, officers, or  
 4 managers acting on behalf of the business entity and the violation was not reported  
 5 to the Department~~[Office]~~ of Insurance nor corrective action taken.

6 (3) The applicant or licensee may make written request for a hearing in accordance with  
 7 KRS 304.2-310.

8 (4) The commissioner~~[executive director]~~ shall retain the authority to enforce the  
 9 provisions and penalties of this chapter against any individual or business entity  
 10 who is under investigation for or charged with a violation of this chapter, even if the  
 11 individual's or business entity's license has been surrendered or has lapsed by  
 12 operation of law.

13 (5) The commissioner~~[executive director]~~ may suspend, revoke, or refuse to renew the  
 14 license of a licensed insurance agent operating as a life settlement broker, pursuant  
 15 to KRS 304.15-700, if the commissioner~~[executive director]~~ finds that such  
 16 insurance agent has violated the provisions of KRS 304.15-700 to 304.15-725.

17 (6) If the commissioner~~[executive director]~~ denies a license application or suspends,  
 18 revokes, or refuses to renew the license of a life settlement provider or life  
 19 settlement broker, or suspends, revokes, or refuses to renew the license of a licensed  
 20 life insurance agent operating as a life settlement broker pursuant to KRS 304.15-  
 21 700, the commissioner~~[executive director]~~ shall comply with the provisions of this  
 22 section and KRS Chapter 13B.

23 ➔Section 1075. KRS 304.9-450 is amended to read as follows:

24 (1) Upon suspension or revocation of any license the commissioner~~[executive director]~~  
 25 shall notify the licensee either in person or by mail addressed to the licensee at his  
 26 or her address last of record with the commissioner~~[executive director]~~. Notice by  
 27 mail shall be deemed effectuated when so mailed. The commissioner~~[executive~~

1       ~~director~~] shall give like notice to the insurer represented by the agent, in the case of  
 2       an agent's license.

3       (2) The commissioner~~[executive-director]~~ shall not again issue a license under this  
 4       code to or as to any individual or business entity whose license has been revoked,  
 5       until after expiration of one (1) year and thereafter not until the individual or  
 6       business entity again qualifies in accordance with the applicable provisions of this  
 7       code. An individual or business entity whose license has been revoked twice shall  
 8       not again be eligible for any license under this code.

9       (3) If the license of a business entity is suspended or revoked, no member, officer, or  
 10       director of the business entity shall be licensed or be designated in or as to any  
 11       license to exercise the powers thereof during the period of the suspension or  
 12       revocation, unless the commissioner~~[executive-director]~~ determines upon  
 13       substantial evidence that the member, officer, or director was not personally at fault  
 14       and did not acquiesce in the matter on account of which the license was suspended  
 15       or revoked.

16       (4) In the event that the action by the commissioner~~[executive-director]~~ is to nonrenew  
 17       or to deny an application for a license, the commissioner~~[executive-director]~~ shall  
 18       notify the applicant or licensee and advise, in writing, the applicant or licensee of  
 19       the reason for the denial or nonrenewal of the applicant's or licensee's license. The  
 20       applicant or licensee may make written demand upon the commissioner~~[executive~~  
 21       ~~director]~~ in accordance with KRS 304.2-310.

22       ➔Section 1076. KRS 304.9-460 is amended to read as follows:

23       (1) All licenses issued under this code, although issued and delivered to the licensee or  
 24       his or her employer, shall at all times be the property of the Commonwealth of  
 25       Kentucky. Upon any expiration, termination, suspension, or revocation of the  
 26       license, the licensee or other person having possession or custody of the license  
 27       shall forthwith deliver it to the commissioner~~[executive-director]~~ either by personal

1 delivery or by mail.

2 (2) As to any license lost, stolen, or destroyed while in the possession of any such  
3 licensee or person, the commissioner~~[executive director]~~ may accept in lieu of  
4 return of the license, the affidavit of the licensee or other person responsible for or  
5 involved in the safekeeping of such license, concerning the facts of such loss, theft,  
6 or destruction.

7 ➔Section 1077. KRS 304.9-465 is amended to read as follows:

8 (1) For the protection of the people of Kentucky, the commissioner~~[executive director]~~  
9 may by order deny, suspend, or place conditions upon any license subject to the  
10 provisions of this subtitle.

11 (2) An order denying a license or appointment shall be based upon the application and  
12 any other information pertaining to the applicant available to the  
13 department~~[office]~~.

14 (3) One (1) or more of the following circumstances shall be considered for an order  
15 suspending a license:

16 (a) The licensee's indictment for crime involving dishonesty, breach of trust, a  
17 violation of Subtitle 47 of this chapter, or a violation of 18 U.S.C. sec. 1033;

18 (b) Sworn complaints to the department~~[office]~~ against the licensee showing  
19 clear and convincing evidence of a violation of KRS 304.9-400 totaling in the  
20 aggregate three hundred dollars (\$300) or more;

21 (c) The suspension or revocation of any other professional license held by the  
22 licensee in Kentucky or any other jurisdiction.

23 (4) The commissioner~~[executive director]~~ may place conditions upon any license for  
24 any reason set forth in subsection (3) of this section.

25 (5) Any person aggrieved by an order of the commissioner~~[executive director]~~ under  
26 this section may file an application for an emergency hearing pursuant to KRS  
27 13B.125 within sixty (60) days of the date of the order. The department~~[office]~~



1 shall conduct the hearing within ten (10) working days of the request for a hearing,  
 2 and within five (5) working days of the completion of the hearing the agency or  
 3 hearing officer shall render a written decision affirming, modifying, or revoking the  
 4 emergency order. The emergency order shall be affirmed if there is substantial  
 5 evidence of a violation of law that constitutes an immediate danger to the public  
 6 health, safety, or welfare. The commissioner~~[executive director]~~ shall participate in  
 7 an expedited hearing at the applicant's written request.

8 ➔Section 1078. KRS 304.9-467 is amended to read as follows:

9 (1) An individual or business entity holding a license issued under this subtitle or  
 10 holding a license as a surplus lines broker, life settlement broker, or life settlement  
 11 provider shall notify the commissioner~~[executive director]~~ in writing immediately if  
 12 the licensee's license to conduct insurance, securities, real estate, auctioneer,  
 13 investment, financial, or financial planning business of any kind in this state or  
 14 elsewhere is surrendered or terminated under threat of disciplinary action, refused,  
 15 suspended, revoked, or renewal of continuance is denied.

16 (2) A licensee shall report to the commissioner~~[executive director]~~ any administrative  
 17 action taken against the licensee in another jurisdiction or by another governmental  
 18 agency in Kentucky within thirty (30) days of the final disposition of the matter.  
 19 This report shall include:

20 (a) A written statement identifying the type of license and explaining the  
 21 circumstances of each incident;

22 (b) A copy of the notice of hearing or other document that states the charges and  
 23 allegations; and

24 (c) A copy of the official document which demonstrates the resolution of the  
 25 charges or any final judgment.

26 (3) Within thirty (30) days of service upon the licensee of any criminal complaint,  
 27 information, or indictment in any jurisdiction, the licensee shall submit to the

1 commissioner~~[executive director]~~ the following:

- 2 (a) A written statement explaining the circumstances of each incident;
- 3 (b) A copy of the charging document; and
- 4 (c) A copy of the official document which demonstrates the resolution of the
- 5 charges or any final judgment.
- 6 (4) If the charges alleged in the criminal complaint, information, or indictment have not
- 7 been finally resolved within the thirty (30) day period following service of the
- 8 criminal complaint, information, or indictment, the licensee shall, within thirty (30)
- 9 days following the resolution of the charges, submit to the commissioner~~[executive~~
- 10 ~~director]~~ a copy of the official document which demonstrates the resolution of the
- 11 charges or any final judgment.

12 ➔Section 1079. KRS 304.9-485 is amended to read as follows:

- 13 (1) The commissioner~~[executive director]~~ may issue to an applicant qualified under
- 14 this section a license to act as a specialty credit insurance producer for the following
- 15 lines of insurance only:
- 16 (a) Credit life;
- 17 (b) Credit health;
- 18 (c) Credit personal property;
- 19 (d) Credit involuntary unemployment; and
- 20 (e) Any other credit-related insurance approved by the commissioner~~[executive~~
- 21 ~~director]~~ as promulgated by administrative regulation.
- 22 (2) For a specialty license to be issued under this section, the applicant shall submit to
- 23 the commissioner~~[executive director]~~ all of the following:
- 24 (a) A written application, signed by the applicant, on a form prescribed by the
- 25 commissioner~~[executive director]~~, that contains the information prescribed by
- 26 the commissioner~~[executive director]~~, including a list of physical locations
- 27 where activities authorized by the specialty license will be conducted;

- 1 (b) A certification by an insurer authorized to do business in this state, signed and  
 2 affirmed as true under penalty of perjury by an officer stating that:
- 3 1. The insurer has satisfied itself that the named applicant is trustworthy  
 4 and competent to act as the insurer's agent; and
  - 5 2. The insurer has appointed the managing employee and business entity  
 6 applicants to act as agents for the type of insurance specified; and
- 7 (c) The applicable fee set forth in KRS 304.4-010.
- 8 (3) A specialty license issued under this section authorizes an employee or  
 9 representative of the license holder to participate in any aspect of selling the types  
 10 of insurance specified in this section, without being licensed, registered, or  
 11 otherwise individually identified, if all of the following are true:
- 12 (a) The employee or representative operates with permission from and under the  
 13 supervision of a managing employee license holder;
  - 14 (b) The employee or representative has been instructed by the managing employee  
 15 license holder with respect to the disclosures that may be required to be made  
 16 to consumers in connection with the sale of credit insurance; and
  - 17 (c) The employee or representative is not primarily compensated based on the  
 18 amount of insurance sold by the employee or representative.
- 19 (4) A specialty license holder may not in any manner advertise, represent, or otherwise  
 20 hold out the license holder or any employee or representative of the license holder  
 21 as a licensed insurance agent under another section of this subtitle, unless the entity  
 22 or individual actually holds the applicable license.
- 23 (5) Insurance shall not be transacted under this section at any location unless the sale of  
 24 insurance includes the consumer protection disclosures set forth in Regulation Z of  
 25 the Federal Truth in Lending Act, 15 U.S.C. sec. 501 et seq.
- 26 (6) If a specialty credit insurance producer violates this chapter, the  
 27 commissioner~~[executive-director]~~ may, after notice and the opportunity for a

1 hearing, impose any penalties set forth in KRS 304.2-360, 304.9-440, and 304.99-  
2 020.

3 (7) An examination is not required for issuance of a license under this section and  
4 continuing education requirements do not apply to a license issued under this  
5 section. A business entity shall continuously maintain at least one (1) managing  
6 employee licensed under this section, but shall not be required to license any of its  
7 officers, directors, or other employees individually.

8 (8) A licensee under this section may receive commissions or other compensation for  
9 services rendered in connection with the sale of credit insurance under this section.

10 (9) Licenses shall be renewed biennially as set forth in KRS 304.9-260 and 304.9-270.

11 (10) The commissioner~~[executive-director]~~ shall establish revenue-neutral license,  
12 location, and renewal fees by administration regulation in an amount sufficient to  
13 maintain the department's~~[office's]~~ revenues generated by credit-limited license  
14 fees for the fiscal year ending June, 2000, indexed annually for inflation.

15 ➔Section 1080. KRS 304.9-503 is amended to read as follows:

16 (1) A rental vehicle agent may sell, solicit, or negotiate insurance at the rental vehicle  
17 company office as specified in this section for any of the following types of  
18 insurance:

19 (a) Insurance that covers the risks of travel, including accident and health  
20 insurance that provides coverage to renters and other rental vehicle occupants  
21 for accidental death or dismemberment and reimbursement for medical  
22 expenses that result from the operation or use of the rental vehicle during the  
23 rental period;

24 (b) Liability insurance that provides coverage to renters and other authorized  
25 drivers of rental vehicles for liability that arises from the operation or use of  
26 the rental vehicle, which may include uninsured motorist and underinsured  
27 motorist coverage, whether offered separately or in combination with other

1 liability insurance;

2 (c) Personal property insurance that provides coverage to renters and other rental  
3 vehicle occupants for the loss of or damage to personal effects that occurs  
4 during the rental period;

5 (d) Roadside assistance;

6 (e) Emergency sickness protection programs; and

7 (f) Any other insurance incidental to the rental of a motor vehicle and approved  
8 by the commissioner~~executive director~~.

9 (2) When a renter purchases any of the rental vehicle insurance coverages listed in  
10 subsection (1) of this section, the coverages shall be primary over any other  
11 coverages which may be available to the renter or authorized driver covering the  
12 same loss.

13 ➔Section 1081. KRS 304.9-505 is amended to read as follows:

14 (1) A license issued under this section shall permit rental vehicle insurance sales by the  
15 license holder provided the sales are conducted in accordance with the provisions of  
16 KRS 304.9-507.

17 (2) A business entity licensee shall register with the commissioner~~executive director~~  
18 each separate business location where its employees sell, solicit, or negotiate  
19 insurance and may pay a location registration fee for each separate location.

20 (3) The commissioner~~executive director~~ may issue to an applicant qualified under  
21 this section a license to act as a rental vehicle agent.

22 (4) For a license to be issued under this section, the applicant shall submit to the  
23 commissioner~~executive director~~ all of the following:

24 (a) A written application, signed by the applicant, on a form prescribed by the  
25 commissioner~~executive director~~, that contains the information prescribed by  
26 the commissioner~~executive director~~;

27 (b) A certification by an insurer authorized to do business in this state, signed,

1 and affirmed as true under penalty of perjury by an officer stating that:

2 1. The insurer has satisfied itself that the named applicant is trustworthy  
3 and competent to act as the insurer's agent; and

4 2. The insurer has appointed the applicant to act as agent for the type of  
5 insurance specified;

6 (c) The application fee, appointment fee, and location registration fee as provided  
7 in KRS 304.4-010 and KRS 304.9-501 to 304.9-513;

8 (d) A business entity applicant shall submit a list of physical locations where  
9 activities authorized by the rental vehicle agent license will be conducted;

10 (e) A business entity applicant shall certify that each proposed licensed managing  
11 employee has successfully completed education and training programs,  
12 successfully passed course examinations, and will receive continuing  
13 education all approved by the commissioner~~executive director~~ in accordance  
14 with KRS 304.9-513; and

15 (f) A business entity applicant shall submit proof that the applicant will provide  
16 education, training, and continuing education approved by the  
17 commissioner~~executive director~~ in accordance with KRS 304.9-513 for each  
18 rental vehicle employee or representative. However, a test shall not be  
19 required for each rental vehicle employee or representative who is not a  
20 licensed managing employee.

21 (5) The commissioner~~executive director~~ may require any documents reasonably  
22 necessary to verify the information contained in the application submitted in  
23 accordance with subsection (4) of this section.

24 ➔Section 1082. KRS 304.9-507 is amended to read as follows:

25 (1) A license issued to a business entity under KRS 304.9-505 shall authorize an  
26 employee or representative of the business entity licensee to sell, solicit, or  
27 negotiate rental vehicle insurance without being licensed, registered, or otherwise

1 individually identified, if all of the following are true:

2 (a) The employee, representative, or managing employee operates with  
3 permission from the business entity licensee;

4 (b) The business entity licensee assumes responsibility for the insurance activities  
5 of its unlicensed employees or representatives;

6 (c) The employee or representative operates under the supervision of a managing  
7 employee who is licensed as a rental vehicle agent and who shall be available  
8 at all times for consultation for and adequate supervision of the business  
9 locations registered with the commissioner~~executive director~~ during the  
10 sale, solicitation, or negotiation of rental vehicle insurance. However, a  
11 managing employee need not be present at each business location registered  
12 with the commissioner~~executive director~~;

13 (d) The business entity maintains an adequate number of managing employees  
14 available for consultation and supervision for the employees or representatives  
15 offering insurance products;

16 (e) The employee, representative, or managing employee has been instructed by  
17 the rental vehicle agent with respect to the consumer disclosures that are  
18 required under KRS 304.9-509 prior to the sale of the rental vehicle insurance;

19 (f) The employee or representative is not primarily compensated based on the  
20 amount of insurance sold by the employee or representative; and

21 (g) The business location is registered with the commissioner~~executive director~~.

22 (2) A licensee shall not advertise, represent, or otherwise hold out the licensee or any  
23 employee or representative of the licensee as a licensed insurance agent under  
24 another section of this subtitle, unless the entity or individual actually holds the  
25 applicable license.

26 ➔Section 1083. KRS 304.9-513 is amended to read as follows:

27 (1) If a licensee violates a provision of this chapter, the commissioner~~executive~~

1       ~~director~~] may take administrative action and impose penalties in accordance with  
2       this chapter.

3       (2) A licensed business entity under KRS 304.9-505 shall provide to the  
4       commissioner~~[executive director]~~ its courses of instruction, course examinations  
5       for managing employees, employee training, and continuing education material for  
6       all employees subject to the commissioner's~~[executive director's]~~ approval prior to  
7       issuance of a license under this section.

8       (3) A licensee under KRS 304.9-505 may receive commissions or other compensation  
9       for services rendered in connection with the sale of rental vehicle insurance.

10      (4) Licenses shall be renewed biennially as set forth in KRS 304.9-260 and 304.9-270.

11      (5) The commissioner~~[executive director]~~ shall promulgate administrative regulations  
12      to carry out the purpose of KRS 304.9-501 to 304.9-513.

13      ➔Section 1084. KRS 304.9-700 is amended to read as follows:

14      As used in KRS 304.9-700 to 304.9-759, unless the context requires otherwise:

15      (1) "Actuary" means a person who is a member in good standing of the American  
16      Academy of Actuaries;

17      (2) "Controlling person" means any person, firm, association, or corporation who  
18      directly or indirectly has the power to direct or cause to be directed the  
19      management, control, or activities of the reinsurance intermediary;

20      (3) "Insurer" means any person, firm, association, or corporation duly authorized by the  
21      commissioner~~[executive director]~~ pursuant to the applicable provisions of this  
22      chapter as an insurer;

23      (4) "Licensed producer" means an agent, surplus lines broker, or reinsurance  
24      intermediary licensed pursuant to the applicable provisions of this chapter;

25      (5) "Reinsurance intermediary" means a reinsurance intermediary broker or a  
26      reinsurance intermediary manager as defined in subsections (6) and (7) of this  
27      section;



1 (6) "Reinsurance intermediary broker" means any person, other than an officer or  
 2 employee of the ceding insurer, firm, association, or corporation who solicits,  
 3 negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding  
 4 insurer without the authority or power to bind reinsurance on behalf of the insurer;

5 (7) "Reinsurance intermediary manager" means any person, firm, association, or  
 6 corporation who has authority to bind or manages all or part of the assumed  
 7 reinsurance business of a reinsurer (including the management of a separate  
 8 division, department, or underwriting office) and acts as an agent for a reinsurer  
 9 whether known as a reinsurance intermediary manager, manager, or by other similar  
 10 term. However, the following persons shall not be considered a reinsurance  
 11 intermediary manager with respect to the reinsurer for the purposes of KRS 304.9-  
 12 700 to 304.9-759:

13 (a) An employee of the reinsurer;

14 (b) A United States manager of the United States branch of an alien reinsurer;

15 (c) An underwriting manager which, pursuant to contract, manages all the  
 16 reinsurance operations of the reinsurer, is under common control with the  
 17 reinsurer, subject to Subtitle 37 of this chapter, and whose compensation is  
 18 not based on the volume of premiums written; or

19 (d) The manager of a group, association, pool, or organization of insurers which  
 20 engage in joint underwriting or joint reinsurance and who are subject to  
 21 examination by the insurance regulatory official of the state in which the  
 22 manager's principal business office is located;

23 (8) "Reinsurer" means any person, firm, association, or corporation duly authorized in  
 24 Kentucky pursuant to this chapter as an insurer with the authority to assume  
 25 reinsurance;

26 (9) "To be in violation" means that the reinsurance intermediary, insurer, or reinsurer  
 27 for whom the reinsurance intermediary was acting failed to comply substantially

1 with the provisions of KRS 304.9-700 to 304.9-759; and

2 (10) "Qualified United States financial institution" means an institution that:

3 (a) Is organized or, in the case of a United States office of a foreign banking  
4 organization, licensed under the laws of the United States or any state thereof;

5 (b) Is regulated, supervised, and examined by the United States government or  
6 state authorities having regulatory authority over banks and trust companies;  
7 and

8 (c) Has been determined by either the commissioner~~executive director~~, or the  
9 Securities Valuation Office of the National Association of Insurance  
10 Commissioners, to meet the standards of financial condition and standing  
11 considered necessary and appropriate to regulate the quality of financial  
12 institutions whose letters of credit will be acceptable to the  
13 commissioner~~executive director~~.

14 ➔Section 1085. KRS 304.9-705 is amended to read as follows:

15 (1) No individual or business entity shall act as a reinsurance intermediary broker in  
16 Kentucky if the reinsurance intermediary broker maintains an office either directly  
17 or as a director, officer, member, or employee of a business entity:

18 (a) In Kentucky, unless the reinsurance intermediary broker is a licensed  
19 insurance producer in Kentucky and may sell reinsurance products under that  
20 insurance producer license; or

21 (b) In another state, unless the reinsurance intermediary broker is a licensed  
22 insurance producer in Kentucky and may sell reinsurance products under that  
23 producer license, or is licensed in another state having a law substantially  
24 similar to KRS 304.9-700 to 304.9-759, or the reinsurance intermediary  
25 broker is licensed in Kentucky as a nonresident reinsurance intermediary.

26 (2) No individual or business entity shall act as a reinsurance intermediary manager:

27 (a) For a reinsurer domiciled in Kentucky, unless the reinsurance intermediary

1 manager is a licensed insurance producer in Kentucky and may sell  
2 reinsurance products under that insurance producer license;

3 (b) In Kentucky, if the reinsurance intermediary manager maintains an office,  
4 either directly or as a director, officer, member, or employee of a business  
5 entity in Kentucky, unless the reinsurance intermediary manager is a licensed  
6 insurance producer in Kentucky and may sell reinsurance products under that  
7 insurance producer license; or

8 (c) In another state for a nondomestic insurer, unless the reinsurance intermediary  
9 manager is a licensed insurance producer in Kentucky and may sell  
10 reinsurance products under that insurance producer license, is licensed in  
11 another state having a law substantially similar to KRS 304.9-700 to 304.9-  
12 759, or the person is licensed in Kentucky as a nonresident reinsurance  
13 intermediary.

14 (3) The commissioner~~[executive director]~~ may issue a reinsurance intermediary license  
15 to any individual or business entity who has complied with the requirements of  
16 KRS 304.9-700 to 304.9-759 and who is financially responsible to exercise the  
17 license. The license issued to a business entity shall be exercised only by individuals  
18 designated with the commissioner~~[executive director]~~ as to the license in  
19 accordance with KRS 304.9-133.

20 (4) The commissioner~~[executive director]~~ may refuse to issue a reinsurance  
21 intermediary license if, in his or her judgment, the applicant, anyone named on the  
22 application, or any member, principal, officer, or director of the applicant is not  
23 trustworthy or of good reputation, or that any controlling person of the applicant is  
24 not trustworthy to act as a reinsurance intermediary, or that any of the foregoing  
25 persons have given cause for revocation or suspension of the license, or has failed to  
26 comply with any prerequisite for the issuance of the license.

27 (5) Licensed attorneys-at-law of Kentucky, when acting in their professional capacity as

attorneys, shall be exempt from this section.

➔ Section 1086. KRS 304.9-725 is amended to read as follows:

Transactions between a reinsurance intermediary manager and the reinsurer it represents in such capacity shall only be entered into pursuant to a written contract, specifying the responsibilities of each party, which shall be approved by the reinsurer's board of directors. At least thirty (30) days before the reinsurer assumes or cedes business through such producer, a true copy of the contract approved by the reinsurer's board of directors shall be filed with the commissioner~~[executive director]~~ for approval. The contract shall, at a minimum, contain provisions that:

- (1) The reinsurer may terminate the contract for cause upon written notice to the reinsurance intermediary manager. The reinsurer may suspend the authority of the reinsurance intermediary manager to assume or cede business during the pendency of any dispute regarding the cause for termination;
- (2) The reinsurance intermediary manager shall render accounts to the reinsurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to, the reinsurance intermediary manager, and remit all funds due under the contract to the reinsurer on not less than a monthly basis;
- (3) All funds collected for the reinsurer's account shall be held by the reinsurance intermediary manager in a fiduciary capacity in a bank which is a qualified United States financial institution. The reinsurance intermediary manager may retain no more than three (3) months estimated claims payment and allocated loss adjustment expenses. The reinsurance intermediary manager shall maintain a separate bank account for each reinsurer that it represents;
- (4) For at least ten (10) years after expiration of each contract of reinsurance transacted by the reinsurance intermediary manager, the reinsurance intermediary manager shall keep a complete record for each transaction showing:

- 1 (a) The type of contract, limits, underwriting restrictions, classes or risks, and
- 2 territory;
- 3 (b) Period of coverage, including effective and expiration dates, cancellation
- 4 provisions and notice required for cancellation; and disposition of outstanding
- 5 reserves on covered risks;
- 6 (c) Reporting and settlement requirements of balances;
- 7 (d) Rate used to compute the reinsurance premium;
- 8 (e) Names and addresses of reinsurers;
- 9 (f) Rates of all reinsurance commissions, including the commissions on any
- 10 retrocessions handled by the reinsurance intermediary manager;
- 11 (g) Related correspondence and memoranda;
- 12 (h) Proof of placement;
- 13 (i) Details regarding retrocessions handled by the reinsurance intermediary
- 14 manager, as permitted by KRS 304.9-735(4), including the identity of
- 15 retrocessionaires and percentage of each contract assumed or ceded;
- 16 (j) Financial records, including, but not limited to, premium and loss accounts;
- 17 and
- 18 (k) When the reinsurance intermediary manager places a reinsurance contract on
- 19 behalf of a ceding insurer:
  - 20 1. Directly from any assuming reinsurer, written evidence that the
  - 21 assuming reinsurer has agreed to assume the risk; and
  - 22 2. If placed through a representative of the assuming reinsurer, other than
  - 23 an employee, written evidence that the reinsurer has delegated binding
  - 24 authority to the representative;
- 25 (5) The reinsurer shall have access to and the right to copy all accounts and records
- 26 maintained by the reinsurance intermediary manager related to its business in a form
- 27 usable by the reinsurer;

- 1 (6) The contract shall not be assigned in whole or in part by the reinsurance  
2 intermediary manager;
- 3 (7) The reinsurance intermediary manager shall comply with the written underwriting  
4 and rating standards established by the insurer for the acceptance, rejection, or  
5 cession of all risks;
- 6 (8) Set forth the rates, terms, and purposes of commissions, charges, and other fees  
7 which the reinsurance intermediary manager may levy against the reinsurer;
- 8 (9) If the contract permits the reinsurance intermediary manager to settle claims on  
9 behalf of the reinsurer:
  - 10 (a) All claims shall be reported to the reinsurer in a timely manner;
  - 11 (b) A copy of the claim file shall be sent to the reinsurer at its request or as soon  
12 as it becomes known that the claim:
    - 13 1. Has the potential to exceed the lesser of an amount determined by the  
14 commissioner~~executive director~~ or the limit set by the reinsurer;
    - 15 2. Involves a coverage dispute;
    - 16 3. May exceed the reinsurance intermediary manager's claims settlement  
17 authority;
    - 18 4. Is open for more than six (6) months; or
    - 19 5. Is closed by payment of the lesser of an amount set by the  
20 commissioner~~executive director~~ or an amount set by the reinsurer;
  - 21 (c) All claim files shall be the joint property of the reinsurer and the reinsurance  
22 intermediary manager. However, upon an order of liquidation of the reinsurer,  
23 the files shall become the sole property of the reinsurer or its estate, but the  
24 reinsurance intermediary manager shall have reasonable access to and the  
25 right to copy the files; and
  - 26 (d) Any settlement authority granted to the reinsurance intermediary manager may  
27 be terminated for cause upon the reinsurer's written notice to the reinsurance

1 intermediary manager or upon the termination of the contract. The reinsurer  
 2 may suspend the settlement authority during the pendency of the dispute  
 3 regarding the cause of termination;

4 (10) If the contract provides for a sharing of interim profits by the reinsurance  
 5 intermediary manager, that the interim profits shall not be paid until one (1) year  
 6 after the end of each underwriting period for property business and five (5) years  
 7 after the end of each underwriting period for casualty business, or a later period set  
 8 by the commissioner~~[executive director]~~ for specified lines of insurance, and not  
 9 until the adequacy of reserves on remaining claims has been verified pursuant to  
 10 KRS 304.9-735(3);

11 (11) The reinsurance intermediary manager shall annually provide the reinsurer with a  
 12 statement of its financial condition prepared by an independent certified accountant;

13 (12) The reinsurer shall at least semiannually conduct an on-site review of the  
 14 underwriting and claims processing operations of the reinsurance intermediary  
 15 manager;

16 (13) The reinsurance intermediary manager shall disclose to the reinsurer any  
 17 relationship it has with any insurer prior to ceding or assuming any business with  
 18 such reinsurer pursuant to this contract; and

19 (14) The acts of the reinsurance intermediary manager shall be deemed to be the acts of  
 20 the reinsurer on whose behalf it is acting.

21 ➔Section 1087. KRS 304.9-735 is amended to read as follows:

22 (1) A reinsurer shall not engage the services of any person, firm, association, or  
 23 corporation to act as a reinsurance intermediary manager on its behalf unless the  
 24 person is licensed as required by KRS 304.9-705(2).

25 (2) The reinsurer shall annually obtain a copy of statements of the financial condition of  
 26 each reinsurance intermediary manager which the reinsurer has engaged prepared by  
 27 an independent certified accountant in a form acceptable to the

1 **commissioner**~~{executive director}~~.

2 (3) If a reinsurance intermediary manager establishes loss reserves, the reinsurer shall  
3 annually obtain the opinion of an actuary attesting to the adequacy of loss reserves  
4 established for losses incurred and outstanding on business produced by the  
5 reinsurance intermediary manager. This opinion shall be in addition to any other  
6 required loss reserve certification.

7 (4) Binding authority for all retrocessional contracts or participation in reinsurance  
8 syndicates shall rest with an officer of the reinsurer who shall not be affiliated with  
9 the reinsurance intermediary manager.

10 (5) Within thirty (30) days of termination of a contract with a reinsurance intermediary  
11 manager, the reinsurer shall provide written notification of such termination to the  
12 **commissioner**~~{executive director}~~.

13 (6) A reinsurer shall not appoint to its board of directors any officer, director,  
14 employee, controlling shareholder, or subproducer of its reinsurance intermediary  
15 manager. This subsection shall not apply to relationships governed by Subtitle 37 of  
16 this chapter or, if applicable, any provisions of Subtitle 3 of this chapter on producer  
17 controlled insurers.

18 ➔Section 1088. KRS 304.9-740 is amended to read as follows:

19 (1) A reinsurance intermediary shall be subject to examination by the  
20 **commissioner**~~{executive director}~~. The **commissioner**~~{executive director}~~ shall  
21 have access to all books, bank accounts, and records of the reinsurance intermediary  
22 in a form usable to the **commissioner**~~{executive director}~~.

23 (2) A reinsurance intermediary manager may be examined as if it were the reinsurer.

24 ➔Section 1089. KRS 304.9-745 is amended to read as follows:

25 (1) The license of a reinsurance intermediary may be suspended or revoked, civil  
26 penalties imposed in the amount applicable to agents under KRS 304.99-020,  
27 conditions imposed on the license, or any combination thereof, on the grounds set



1       forth in KRS 304.9-440.

2       (2) If a reinsurance intermediary violates any provision of this chapter or any other  
3       statute or administrative regulation administered by the commissioner~~executive~~  
4       ~~director~~, the reinsurance intermediary shall make restitution to the insurer,  
5       reinsurer, rehabilitator, or liquidator of the insurer or reinsurer for net losses  
6       incurred by the insurer or reinsurer attributable to the violation.

7       (3) Nothing contained in this section shall affect the right of the  
8       commissioner~~executive director~~ to impose any other penalties provided in this  
9       chapter.

10      (4) Nothing contained in KRS 304.9-700 to 304.9-759 is intended to or shall in any  
11      manner limit or restrict the rights of policyholders, claimants, creditors, or third  
12      parties.

13      ➔Section 1090. KRS 304.9-750 is amended to read as follows:

14      (1) The commissioner~~executive director~~ may promulgate reasonable administrative  
15      regulations for the implementation, interpretation, and administration of the  
16      provisions of KRS 304.9-700 to 304.9-759.

17      (2) Insurers or reinsurers shall not continue to utilize the services of a reinsurance  
18      intermediary on and after July 14, 1992, unless utilization is in compliance with  
19      KRS 304.9-700 to 304.9-759.

20      ➔Section 1091. KRS 304.10-050 is amended to read as follows:

21      At the time of effecting any such surplus lines insurance, the broker shall execute an  
22      affidavit in form prescribed or accepted by the commissioner~~executive director~~ setting  
23      forth facts from which it can be determined whether such insurance was eligible for  
24      export under KRS 304.10-040. The broker shall file this affidavit with the  
25      commissioner~~executive director~~ in the manner and form as prescribed by the  
26      commissioner~~executive director~~ through administrative regulation.

27      ➔Section 1092. KRS 304.10-060 is amended to read as follows:

1 (1) The commissioner~~[executive director]~~ may by order declare eligible for export  
 2 generally and without compliance with the provisions of subsections (2) and (3) of  
 3 KRS 304.10-040, and 304.10-050, any class or classes of insurance coverage or risk  
 4 for which he or she finds, after a hearing of which notice was given to each insurer  
 5 authorized to transact such class or classes in this state, that there is not a reasonable  
 6 or adequate market among authorized insurers either as to acceptance of the risk,  
 7 contract terms or premium or premium rate. Any such order shall continue in effect  
 8 during the existence of the conditions upon which predicated, but subject to earlier  
 9 termination by the commissioner~~[executive director]~~.

10 (2) The broker shall file with or as directed by the commissioner~~[executive director]~~ a  
 11 memorandum as to each such coverage placed by the broker~~[him]~~ in an  
 12 unauthorized insurer, in such form and content as the commissioner~~[executive director]~~  
 13 ~~director]~~ may reasonably require for the identification of the coverage and  
 14 determination of the tax payable to the state relative thereto.

15 (3) The broker, or a licensed agent of the authorized insurer may also place with  
 16 authorized insurers any insurance coverage made eligible for export generally under  
 17 subsection (1) of this section, and without regard to rate or form filings which may  
 18 otherwise be applicable as to the authorized insurer. As to coverages so placed in an  
 19 authorized insurer the premium tax thereon shall be reported and paid by the insurer  
 20 as required generally under KRS Chapter 136.

21 ➔Section 1093. KRS 304.10-070 is amended to read as follows:

22 (1) A broker shall not place surplus lines insurance with an insurer that he or she  
 23 knows, or in the exercise of reasonable diligence could know:

24 (a) Has a surplus in regard to policyholders of less than six million dollars  
 25 (\$6,000,000);

26 (b) Has not established satisfactory evidence of good repute and financial  
 27 integrity;

1 (c) Is unsound financially; or

2 (d) Is ineligible under the Kentucky insurance code.

3 (2) A broker may:

4 (a) Place insurance covering certificates of investment with an insurance  
5 company or guarantee fund which is financially sound and has capital funds  
6 and reserves in excess of fifteen million dollars (\$15,000,000); and

7 (b) Place insurance with a United States insurance exchange which the  
8 commissioner~~executive-director~~, in his or her discretion, may designate for  
9 use by surplus lines brokers licensed by the Commonwealth of Kentucky.

10 (3) A broker shall not place insurance with an alien insurer that is not recognized by the  
11 National Association of Insurance Commissioners and does not maintain in the  
12 United States a trust fund for the benefit of United States policyholders of at least  
13 five million four hundred thousand dollars (\$5,400,000).

14 (4) A broker shall not place insurance with an insurer that has engaged in the insurance  
15 business less than three (3) years unless the insurer has deposited with the  
16 commissioner~~executive-director~~ publicly-traded securities with a market value of  
17 at least six hundred thousand dollars (\$600,000).

18 (5) This section shall not apply to surplus lines insurers eligible to do business in  
19 Kentucky as of July 15, 1982, except that the commissioner~~executive-director~~  
20 may revoke eligibility, or may order the insurer to comply with this section or may  
21 suspend the operation of the insurer in Kentucky.

22 (6) The commissioner~~executive-director~~ may declare that a surplus lines insurer is  
23 ineligible to transact business in Kentucky. The commissioner~~executive-director~~  
24 shall promptly mail notice of all declarations of ineligibility to each surplus lines  
25 broker if at any time the commissioner~~executive-director~~ has reason to believe  
26 that a surplus lines insurer:

27 (a) Is in unsound financial condition;

- 1 (b) Has acted in an untrustworthy manner;
- 2 (c) No longer meets the standards set forth in this subtitle;
- 3 (d) Has willfully violated the laws of Kentucky; or
- 4 (e) Does not conduct a proper claims practice.

5 ➔Section 1094. KRS 304.10-120 is amended to read as follows:

6 (1) Any person who:

- 7 (a) Is a resident of Kentucky or is a nonresident who is not eligible to be issued a
- 8 license in accordance with KRS 304.9-140;
- 9 (b) Holds an agent license with lines of authority for property and casualty; and
- 10 (c) Is deemed by the commissioner~~[executive director]~~ to be competent and
- 11 trustworthy with respect to the handling of surplus lines;
- 12 may be licensed as a surplus lines broker.

13 (2) Application for the license shall be made to the commissioner~~[executive director]~~

14 on forms as designated and furnished by the commissioner~~[executive director]~~.

15 (3) The license fee shall be as specified in KRS 304.4-010.

16 (4) The license and licensee shall be subject to the applicable provisions of Subtitle 9 of

17 this chapter.

18 (5) Notwithstanding subsection (1) of this section, on or after July 1, 2002, an applicant

19 licensed as a surplus lines broker in the applicant's home state may be issued a

20 nonresident surplus lines broker's license in Kentucky if the applicant's home state

21 issues surplus lines broker licenses to Kentucky residents on the same basis.

22 (6) If the resident surplus lines broker fails to maintain his or her agent license with

23 lines of authority for property and casualty, the surplus lines broker license shall

24 terminate and shall be promptly surrendered to the commissioner~~[executive~~

25 ~~director]~~ without demand.

26 ➔Section 1095. KRS 304.10-130 is amended to read as follows:

27 (1) The commissioner~~[executive director]~~ may suspend or revoke any surplus lines

broker's license:

(a) If the broker fails to file his or her annual statement or to remit the tax as required by this subtitle; or

(b) If the broker fails to keep records, or to allow the commissioner~~executive director~~ to examine his or her records as required by this subtitle; or

(c) If the broker knowingly or negligently places a surplus lines coverage in an insurer that is in unsound financial condition in violation of KRS 304.10-070; or

(d) For any other applicable cause for which an agent's license may be suspended or revoked.

(2) The procedures provided by Subtitle 9 of this chapter for suspension or revocation of licenses shall apply to suspension or revocation of a surplus lines broker's license.

(3) Upon suspending or revoking the broker's surplus lines license the commissioner~~executive director~~ shall also suspend or revoke all other licenses of or as to the same individual under this code.

(4) No broker whose license has been suspended or revoked shall again be so licensed until any fines or delinquent taxes owed have been paid, or in case of revocation until after expiration of one (1) year from the date revocation became final.

➔Section 1096. KRS 304.10-140 is amended to read as follows:

(1) To the extent the Gramm-Leach-Bliley Act, 15 U.S.C. sec. 6751(f), provides that evidence of financial responsibility may be required for licensing, prior to issuance of a license as a surplus lines broker, the applicant shall file with the commissioner~~executive director~~, and for as long as the license remains in effect shall keep in force:

(a) Evidence of financial responsibility in the sum of not less than one million dollars (\$1,000,000) per occurrence, and the sum of two million dollars

1 (\$2,000,000) in the aggregate, for all occurrences within one (1) year, either in  
 2 the form of an errors and omissions insurance policy issued by an authorized  
 3 insurer, a bond issued by an authorized corporate surety, a deposit, or a  
 4 combination of a bond issued by an authorized corporate surety and a deposit.  
 5 The policy, bond, deposit, or combination of a bond or deposit shall not be  
 6 terminated unless at least thirty (30) days' prior written notice is given to the  
 7 licensee and the commissioner~~{executive director}~~; and

8 (b) A bond in favor of the State of Kentucky in the penal sum of fifty thousand  
 9 dollars (\$50,000), with an authorized corporate surety guaranteeing that he or  
 10 she will conduct business under the license in accordance with the provisions  
 11 of this subtitle and that he or she will promptly remit the taxes required by  
 12 KRS 304.10-180. The aggregate liability of the surety for any and all claims  
 13 on any bond shall in no event exceed the penal sum. No bond shall be  
 14 terminated unless not less than thirty (30) days' prior written notice is given to  
 15 the licensee and filed with the commissioner~~{executive director}~~.

16 (2) An insurer issuing coverage under subsection (1)(a) or (b) of this section may offer,  
 17 as a part of the policy or as an optional endorsement to the policy, deductibles  
 18 optional to the surplus lines broker applicant or licensee for the payment of claims.  
 19 Deductible amounts offered in accordance with this section shall be fully disclosed  
 20 to the applicant or licensee in writing. If the applicant or licensee chooses a  
 21 deductible policy, the insurer shall pay the deductible amount initially and the  
 22 licensee shall be liable to the insurer, at the time and in the manner prescribed in the  
 23 policy, for the amount of the deductible. If the licensee fails to reimburse the insurer  
 24 as required by this subsection, his or her surplus lines broker license and all other  
 25 licenses issued by the commissioner~~{executive director}~~ are revoked and shall be  
 26 promptly surrendered to the commissioner~~{executive director}~~ without demand.  
 27 Nothing contained in this subsection is intended to or shall in any manner alter or

1 affect the rights of the insurer to collect the reimbursement for the deductible from  
2 the surplus lines broker.

3 ➔Section 1097. KRS 304.10-160 is amended to read as follows:

4 (1) Each broker shall keep in his or her office a full and true record of each surplus  
5 lines coverage procured by him or her, including a copy of each daily report, if any,  
6 a copy of each certificate of insurance issued by him or her, and of the following  
7 items as may be applicable:

8 (a) Amount of the insurance;

9 (b) Gross premium charged;

10 (c) Return premium paid, if any;

11 (d) Rate of premium charged upon the several items of property;

12 (e) Effective date of the contract, and the terms thereof;

13 (f) Name and address of each insurer on the direct risk and the proportion of the  
14 entire risk assumed by the insurer if less than the entire risk;

15 (g) Name and address of the insured;

16 (h) Brief general description of the property or risk insured and where located or  
17 to be performed; and

18 (i) Other information as may be required by the commissioner~~executive~~  
19 ~~director~~].

20 (2) The record shall be open to examination by the commissioner~~executive director~~ at  
21 all times within five (5) years after issuance of the coverage to which it relates.

22 ➔Section 1098. KRS 304.10-170 is amended to read as follows:

23 (1) Each broker shall, within thirty (30) days of the end of each calendar quarter, file  
24 with the commissioner~~executive director~~ a verified statement of all surplus lines  
25 insurance transacted by him during the preceding calendar quarter.

26 (2) The statement shall be on forms as prescribed by the commissioner~~executive~~  
27 ~~director~~] and shall show:

- 1 (a) Gross amount of each kind of insurance transacted;
- 2 (b) Aggregate of gross premiums charged;
- 3 (c) Aggregate of returned premiums paid insureds;
- 4 (d) Aggregate of net premiums; and
- 5 (e) Additional information as required by the commissioner~~[executive director]~~.

6 ➔Section 1099. KRS 304.10-180 is amended to read as follows:

7 (1) Each broker shall pay the following taxes:

- 8 (a) A tax at the rate of three percent (3%) on the premiums, assessments, fees,  
9 charges, or other consideration deemed part of the premium as defined in KRS  
10 304.14-030, on surplus lines insurance subject to tax transacted by him or her  
11 with unauthorized insurers during the preceding calendar quarter as shown by  
12 his or her quarterly statement filed with the commissioner~~[executive director]~~  
13 in accordance with KRS 304.10-170. The tax shall not be assessed on the  
14 premium surcharge tax, the local government premium tax, or any other state  
15 or federal tax. The tax shall be remitted to the commissioner~~[executive  
16 director]~~ within thirty (30) days of the end of each calendar quarter. When  
17 collected the tax shall be credited to the insurance regulatory trust fund, as  
18 established by KRS 304.2-400;
- 19 (b) The premium surcharge tax, to be remitted to the Kentucky Department of  
20 Revenue, in accordance with KRS 136.392; and
- 21 (c) The local government premium tax, to be remitted to the appropriate city,  
22 county, or urban-county government taxing authority, in accordance with KRS  
23 91A.080. Each broker shall be subject to the provisions of this section and  
24 KRS 91A.080 and 91A.0802 to 91A.0808 as an insurance company.

- 25 (2) If a surplus lines policy covers risks or exposures only partially in this state the tax  
26 so payable shall be computed upon the proportion of the premium which is properly  
27 allocable to the risks or exposures located in this state.



1       ➔Section 1100. KRS 304.10-210 is amended to read as follows:

2       The commissioner~~[executive director]~~ shall make or may approve and adopt reasonable  
3       rules and regulations, consistent with this subtitle, for any and all of the following  
4       purposes:

- 5       (1) Effectuation of the Surplus Lines Law; and
- 6       (2) Establishment of procedures through which determination is to be made as to the  
7       eligibility of particular proposed coverages for export.

8       ➔Section 1101. KRS 304.11-020 is amended to read as follows:

- 9       (1) Other than KRS 304.11-050, the provisions of KRS 304.11-020 to 304.11-050,  
10       shall not apply to any insurance company or underwriter issuing contracts of  
11       insurance to industrial insureds, government entity insureds, and exempt  
12       commercial policyholders, nor to any contract of insurance issued to any one (1) or  
13       more industrial insureds.

- 14       (2) For the purpose of this section:

15       (a) An "industrial insured" is:

- 16           1. An insured who procures the insurance of any risk or risks other than life  
17           and annuity contracts by use of the services of a full-time employee  
18           acting as an insurance manager or buyer or the services of a regularly  
19           and continuously retained qualified insurance consultant; and
- 20           2. An insured whose aggregate annual premiums for insurance on all risks  
21           total at least twenty-five thousand dollars (\$25,000); and
- 22           3. An insured having at least twenty-five (25) full-time employees; and
- 23           4. All entities that have qualified as industrial insureds as of July 1, 1999.

24       (b) A "government entity insured" is an insured:

- 25           1. That is a government entity, municipal corporation, or public agency  
26           located in a city or county having a population of less than fifty thousand  
27           (50,000); and

- 1           2. That procures the insurance of any risk or risks, other than life and
- 2           annuity contracts, by use of the services of a full-time employee acting
- 3           as an insurance manager or buyer, or by the use of the services of a
- 4           regularly and continuously retained qualified insurance consultant; and
- 5           3. Whose aggregate annual premiums for insurance on all risks total at
- 6           least one hundred thousand dollars (\$100,000), exclusive of life, health,
- 7           medical, or annuity premiums; and
- 8           4. That has at least fifty (50) full-time employees; and
- 9           5. That satisfies the criteria the commissioner~~[executive director]~~
- 10          promulgates by administrative regulation.

11       (c) 1. An "exempt commercial policyholder" means an insured that employs  
 12       the services of an insurance agent or broker, procures commercial  
 13       insurance with the services of a full-time risk manager, or a licensed  
 14       insurance consultant, pursuant to Subtitle 9 of this chapter and:

- 15       a. Is a city, county, or urban-county with a population of at least fifty
- 16       thousand (50,000) persons, or the Commonwealth, or a not-for-
- 17       profit organization or a public entity with an annual budget of at
- 18       least twenty-five million dollars (\$25,000,000) or assets of at least
- 19       twenty-five million dollars (\$25,000,000) in the preceding fiscal
- 20       year; or
- 21       b. Certifies that it meets all four (4) of the following criteria:
- 22       i. Possesses a net worth of more than twenty-five million dollars
- 23       (\$25,000,000) at the time the policy of insurance is issued;
- 24       ii. Generated net revenue or sales of more than fifty million dollars
- 25       (\$50,000,000) in the preceding fiscal year;
- 26       iii. Employs more than one hundred (100) employees per individual
- 27       company or two hundred (200) employees per holding company

1 aggregate at the time the policy of insurance is issued; and

2 iv. Paid annual aggregate insurance premiums of more than five  
3 hundred thousand dollars (\$500,000) in the preceding fiscal year.

4 2. As used in this subsection, "risk manager" means a person qualified to  
5 assess an exempt commercial policyholder's insurance needs and  
6 analyze and negotiate a policy of insurance on behalf of an exempt  
7 commercial policyholder. A risk manager shall be:

8 a. A full-time employee of an exempt commercial policyholder who  
9 holds a professional designation relevant to the type of insurance  
10 to be purchased by the exempt commercial policyholder; or

11 b. A person retained by an exempt commercial policyholder who  
12 holds a professional designation relevant to the type of insurance  
13 to be purchased by the exempt commercial policyholder.

14 (d) The requirements of this section shall not apply to a policy of insurance sold  
15 to an exempt commercial policyholder.

16 (e) Policies issued to an exempt commercial policyholder shall contain a  
17 disclaimer in language similar to the following: "The rate provided for in this  
18 policy is exempt from the filing and approval requirements of this section."

19 (f) The exemption of commercial policyholders under this section shall not apply  
20 to Subtitle 39 of this chapter, KRS Chapter 342, sections in Subtitle 13 of this  
21 chapter that pertain to workers' compensation insurance, and KRS 304.12-  
22 230.

23 (3) Policies issued to industrial insureds, government entity insureds, and exempt  
24 commercial policyholders are exempt from the rate and policy form requirements of  
25 this chapter.

26 (4) All industrial insureds, government entity insureds, and exempt commercial  
27 policyholders shall reapply to the commissioner~~executive director~~ for their

1        respective insured status every three (3) years, on a form the  
 2        commissioner~~executive director~~ shall promulgate by administrative regulation.

3        (5) KRS 304.11-020 to 304.11-050, inclusive, shall not apply to any life insurance  
 4        company organized and operated, without profit to any private shareholder or  
 5        individual, exclusively for the purpose of aiding educational or scientific  
 6        institutions organized and operated without profit to any private shareholder or  
 7        individual by issuing insurance and annuity contracts directly from the home office  
 8        of the company and without agents or representatives in this state only to or for the  
 9        benefit of such institutions and to individuals engaged in the services of such  
 10       institutions, nor to any policy or contract which it issues; but this exemption shall be  
 11       conditioned upon any such company complying with the following requirements:

- 12       (a) Payment of an annual registration fee;
- 13       (b) Filing a copy of any policy or contract issued to Kentucky residents with the  
 14       commissioner~~executive director~~;
- 15       (c) Filing a copy of its annual statement prepared pursuant to the laws of its state  
 16       of domicile, as well as such other financial material as may be requested, with  
 17       the commissioner~~executive director~~; and
- 18       (d) Providing, in such form as may be acceptable for the appointment of the  
 19       Secretary of State as its true and lawful attorney upon whom may be served all  
 20       lawful process in any action or proceeding against such company arising out  
 21       of any policy or contract it has issued to, or which is currently held by, a  
 22       Kentucky citizen and process so served against such company shall have the  
 23       same force and validity as if served upon the company.

24       ➔Section 1102. KRS 304.11-030 is amended to read as follows:

25       (1) It shall be unlawful for any company to enter into a contract of insurance as an  
 26       insurer or to transact insurance business in this state, as set forth in subsection (2) of  
 27       this section without a certificate of authority from the commissioner~~executive~~

1 ~~director~~]; provided, that this subsection shall not apply to:

2 (a) The lawful transaction of surplus lines insurance.

3 (b) The lawful transaction of reinsurance by insurers.

4 (c) Transactions in this state involving a policy lawfully solicited, written, and  
5 delivered outside of this state covering only subjects of insurance not resident,  
6 located, or expressly to be performed in this state at the time of issuance, and  
7 which transactions are subsequent to the issuance of such policy.

8 (d) Transactions involving contracts of insurance independently procured through  
9 negotiations occurring entirely outside of this state which are reported and on  
10 which premium tax is paid.

11 (e) Attorneys acting in the ordinary relation of attorney and client in the  
12 adjustment of claims or losses.

13 (f) Transactions in this state involving group life and group health or blanket  
14 health insurance or group annuities where the master policy of such groups  
15 was lawfully issued and delivered in a state in which the company was  
16 authorized to do an insurance business.

17 (g) Transactions in this state involving any policy of insurance issued prior to July  
18 1, 1968.

19 (h) Insurance on vessels, craft or hulls, cargoes, marine builder's risk, marine  
20 protection and indemnity or other risk, including strikes and war risks  
21 commonly insured under ocean or wet marine forms of policy.

22 (2) Any of the following acts in this state effected by mail or otherwise is defined to be  
23 doing an insurance business in this state. The venue of an act committed by mail is  
24 at the point where the matter transmitted by mail is delivered and takes effect.  
25 Unless otherwise indicated, the term "insurer" as used in this section includes all  
26 corporations, associations, partnerships and individuals, engaged as principals in the  
27 business of insurance and also includes interinsurance exchanges and mutual benefit

1 societies.

2 (a) The making of or proposing to make, as an insurer, an insurance contract.

3 (b) The making of or proposing to make, as guarantor or surety, any contract of  
4 guaranty or suretyship as a vocation and not merely incidental to any other  
5 legitimate business or activity of the guarantor or surety.

6 (c) The taking or receiving of any application for insurance.

7 (d) The receiving or collection of any premiums, commissions, membership fees,  
8 assessments, dues or other consideration for any insurance or any part thereof.

9 (e) The issuance or delivery of contracts of insurance to residents of this state or  
10 to persons authorized to do business in this state.

11 (f) Directly or indirectly acting as an agent for, or otherwise representing or  
12 aiding on behalf of another, any person or insurer in the solicitation,  
13 negotiation, procurement or effectuation of insurance or renewals thereof or in  
14 the dissemination of information as to coverage or rates, or forwarding of  
15 applications, or delivery of policies or contracts, or inspection of risks, or  
16 fixing of rates or investigation or adjustment of claims or losses, or in the  
17 transaction of matters subsequent to effectuation of the contract and arising  
18 out of it, or in any other manner representing or assisting a person or insurer in  
19 the transaction of insurance with respect to subjects of insurance resident,  
20 located or to be performed in this state. The provisions of this subsection shall  
21 not operate to prohibit full-time salaried employees of a corporate insured  
22 from acting in the capacity of an insurance manager or buyer in placing  
23 insurance in behalf of such employer.

24 (g) The doing of any kind of insurance business specifically recognized as  
25 constituting the doing of an insurance business within the meaning of the  
26 statutes relating to insurance.

27 (h) The doing or proposing to do any insurance business in substance equivalent

1 to any of the foregoing in a manner designed to evade the provisions of this  
2 code.

3 (i) Any other transactions of business in this state by an insurer.

4 (3) (a) The failure of a company transacting insurance business in Kentucky to obtain  
5 a certificate of authority shall not impair the validity of any act or contract of  
6 such company and shall not prevent such company from defending any action  
7 at law or suit in equity in any court of this state.

8 (b) In event of failure of any such unauthorized insurer to pay any claim or loss  
9 within the provisions of such insurance contract, any person who assisted or in  
10 any manner aided directly or indirectly in the procurement of such insurance  
11 contract shall be liable to the insured for the full amount of the claim or loss in  
12 the manner provided by the provisions of such insurance contract.

13 (4) Whenever the commissioner~~executive director~~ believes, from evidence  
14 satisfactory to him or her, that any company is violating or about to violate the  
15 provisions of these sections, the commissioner~~executive director~~ may, through the  
16 Attorney General of this state, cause a complaint to be filed in the Circuit Court of  
17 Franklin County to enjoin and restrain such company from continuing such  
18 violation or engaging therein or doing any act in furtherance thereof. The court shall  
19 have jurisdiction of the proceeding and shall have the power to make and enter an  
20 order or judgment awarding such preliminary or final injunctive relief as in its  
21 judgment is proper.

22 ➔Section 1103. KRS 304.11-040 is amended to read as follows:

23 (1) No person or insurer shall directly or indirectly perform any of the acts of doing an  
24 insurance business as defined in KRS 304.11-020 to 304.11-050, inclusive, except  
25 as provided by and in accordance with the specific authorization by statute.  
26 However, should any unauthorized person or insurer perform any act of doing an  
27 insurance business as set forth in KRS 304.11-020 to 304.11-050, inclusive, it shall

1 be equivalent to and shall constitute an irrevocable appointment by such person or  
 2 insurer, binding upon the person or insurer~~[him]~~, his or her executor or  
 3 administrator, or successor in interest if a corporation, of the Secretary of State or  
 4 his or her successor in office to be the true and lawful attorney upon whom may be  
 5 served all lawful process in any action, suit, administrative hearing or proceeding in  
 6 any court arising out of doing an insurance business in this state or instituted by or  
 7 on behalf of an insured or beneficiary arising out of any such acts of doing an  
 8 insurance business. Any act of doing an insurance business by any unauthorized  
 9 person or insurer shall be signification of its agreement that such service of process  
 10 is of the same legal force and validity as personal service of process in this state  
 11 upon such person or insurer.

12 (2) Service of process in any action may be made by service upon the Secretary of State  
 13 as provided in KRS 304.3-230.

14 (3) Service of process in any such action, suit, or proceeding shall in addition to the  
 15 manner as provided in KRS 304.11-020 to 304.11-050, inclusive, be valid if served  
 16 upon any person within this state who, in this state on behalf of such insurer, is  
 17 soliciting insurance, making, issuing, or delivering any contract of insurance, or  
 18 collecting or receiving any premium, membership fee, assessment, or other  
 19 consideration for insurance, and if:

20 (a) A copy of such process is sent within ten (10) days thereafter by certified mail  
 21 by the plaintiff or plaintiff's attorney to the defendant at the last known  
 22 principal place of business of the defendant.

23 (b) The defendant's receipt, or the receipt issued by the post office showing the  
 24 name of the sender of the letter and the name and address of the person to  
 25 whom the letter is addressed, and an affidavit of the plaintiff or plaintiff's  
 26 attorney showing a compliance herewith are filed with the clerk of the court in  
 27 which such action is pending on or before the date the defendant is required to



1 appear or within such further time as the court may allow.

2 (4) No plaintiff shall be entitled to a judgment by default under KRS 304.11-020 to  
3 304.11-050, inclusive, until the expiration of thirty (30) days from the date of the  
4 filing of the affidavit of compliance.

5 (5) Nothing in subsections (1) to (5), inclusive, of this section shall limit or abridge the  
6 right to serve any process, notice, or demand upon any insurer in any other manner  
7 now or hereafter permitted by law.

8 (6) The Attorney General upon request of the commissioner~~executive director~~ may  
9 proceed in the courts of this state or any other state or in any federal court or agency  
10 to enforce an order or decision in any court proceeding or in any administrative  
11 proceeding before the commissioner~~executive director~~.

12 (7) Before any unauthorized person or insurer files or causes to be filed in any pleading  
13 in any court action, suit or proceeding or in any notice, order, pleading, or process in  
14 such administrative proceeding before the commissioner~~executive director~~  
15 instituted against such person or insurer, by services made as provided in  
16 subsections (1) to (5), inclusive, of this section such person or insurer shall either:

17 (a) Deposit with the clerk of the court in which such action, suit, or proceeding is  
18 pending, or with the commissioner~~executive director~~ in administrative  
19 proceedings before the commissioner~~executive director~~, cash or securities,  
20 or file with such clerk or commissioner~~executive director~~ a bond with good  
21 and sufficient sureties, to be approved by the clerk or commissioner~~executive~~  
22 ~~director~~ in an amount to be fixed by the court or commissioner~~executive~~  
23 ~~director~~ sufficient to secure the payment of any final judgment which may be  
24 rendered in such action or administrative proceeding.

25 (b) Procure a certificate of authority to transact the business of insurance in this  
26 state.

27 (8) The court in any action, suit, or proceeding in which service is made as provided in

subsections (1) to (5), inclusive, of this section may in ~~[his or]~~its discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of subsection (7) of this section and to defend such action.

(9) Nothing in subsection (7) of this section shall be construed to prevent an unauthorized person or foreign or alien insurer from filing a motion to quash a writ or to set aside service thereof made in the manner provided in subsections (1) to (5), inclusive, of this section on the ground that such unauthorized person or insurer has not done any of the acts enumerated in subsections (1) to (3), inclusive, of KRS 304.11-030.

(10) In an action against an unauthorized person or insurer upon a contract of insurance issued or delivered in this state to a resident thereof or to a corporation authorized to do business therein, if the person or insurer has failed for thirty (30) days after demand prior to the commencement of the action to make payment in accordance with the terms of the contract, and it appears to the court that such refusal was without reasonable cause, the court may allow to the plaintiff a reasonable attorney fee and include such fee in any judgment that may be rendered in such action. Failure of the person or insurer to defend any such action shall be deemed prima facie evidence that its failure to make payment was without reasonable cause.

(11) Whenever the commissioner~~[executive-director]~~ has reason to believe that insurance has been effectuated by or for any person in this state with an unauthorized insurer the commissioner~~[executive-director]~~ shall in writing order such person to produce for examination all insurance contracts and other documents evidencing insurance with both authorized and unauthorized insurers and to disclose to the commissioner~~[executive-director]~~ the amount of insurance, name and address of each insurer, gross amount of premium paid or to be paid and the name and address of the person or persons assisting or aiding in the solicitation,

1 negotiation, or effectuation of such insurance.

2 (12) Every person investigating or adjusting any loss or claim on a subject of insurance  
3 in this state shall immediately report to the commissioner~~[executive-director]~~ every  
4 insurance policy or contract which has been entered into by an insurer not  
5 authorized to transact such insurance in this state.

6 ➔Section 1104. KRS 304.11-045 is amended to read as follows:

7 (1) The purpose of this section is to give Kentucky jurisdiction over providers of health  
8 care benefits; to indicate how each provider of health care benefits may show under  
9 what jurisdiction it falls; to allow for examination by Kentucky if the provider of  
10 health care benefits is unable to show it is subject to another jurisdiction; to make  
11 such a provider of health care benefits subject to the laws of Kentucky if it cannot  
12 show that it is subject to another jurisdiction; and to disclose to purchasers of such  
13 health care benefits whether or not the plans are fully insured.

14 (2) Notwithstanding any other provision of law, and except as provided herein, any  
15 person or other entity which provides coverage in this state for medical, surgical,  
16 chiropractic, physical therapy, speech pathology, audiology, professional mental  
17 health, dental, hospital, or optometric expenses, whether such coverage is by direct  
18 payment, reimbursement, or otherwise, shall be presumed to be subject to the  
19 jurisdiction of the department~~[office]~~, unless the person or other entity shows that  
20 while providing such services it is subject to the jurisdiction of another agency of  
21 this state, any subdivision thereof, or the federal government.

22 (3) If a person or entity wishes to show that it is subject to the jurisdiction of another  
23 agency of this state, any subdivision thereof, or the federal government, such  
24 showing shall be made by providing to the commissioner~~[executive-director]~~ the  
25 appropriate certificate, license, or other document issued by other governmental  
26 agency which permits or qualifies it to provide those services.

27 (4) Any person or entity which is unable to show under subsection (3) that it is subject

1 to the jurisdiction of another agency of this state, any subdivision thereof, or the  
 2 federal government, shall submit to an examination by the commissioner~~executive~~  
 3 ~~director~~ to determine the organization and solvency of the person or the entity, and  
 4 to determine whether or not such person or entity complies with the applicable  
 5 provisions of this chapter.

6 (5) Any person or entity unable to show that it is subject to the jurisdiction of another  
 7 agency of this state, any subdivision thereof, or the federal government, shall be  
 8 subject to all appropriate provisions of this code regarding the conduct of its  
 9 business.

10 (6) Any production agency or administrator which advertises, sells, transacts, or  
 11 administers the coverage in this state described in subsection (2) of this section and  
 12 which is required to submit to an examination by the commissioner~~executive~~  
 13 ~~director~~ under subsection (4) of this section shall, if said coverage is not fully  
 14 insured or otherwise fully covered by an authorized life or health insurer, nonprofit  
 15 hospital, medical-surgical, dental, and health service corporation, health  
 16 maintenance organization, or prepaid dental plan organization, advise every  
 17 purchaser, prospective purchaser, and covered person of such lack of insurance or  
 18 other coverage. Any administrator which advertises or administers the coverage in  
 19 this state described in subsection (2) of this section which is required to submit to  
 20 an examination by the commissioner~~executive director~~ under subsection (4) of  
 21 this section shall advise any production agency of the elements of the coverage,  
 22 including the amount of "stop loss" insurance in effect.

23 ➔Section 1105. KRS 304.12-013 is amended to read as follows:

24 (1) The purpose of this section is to prohibit unfair or deceptive practices in the  
 25 transaction of life and health insurance with respect to the human  
 26 immunodeficiency virus infection and related matters. This section applies to all life  
 27 and health insurance contracts which are delivered or issued for delivery in

1 Kentucky on or after July 13, 1990.

2 (2) This section shall not prohibit an insurer from contesting the validity of an  
3 insurance contract or whether a claim is covered under an insurance contract to the  
4 extent allowed by law.

5 (3) As used in this section:

6 (a) "Human immunodeficiency virus" (HIV) means the causative agent of  
7 acquired immunodeficiency syndrome (AIDS) or any other type of  
8 immunosuppression caused by the human immunodeficiency virus;

9 (b) "Insurance contract" means a contract issued by an insurer as defined in this  
10 section; and

11 (c) "Insurer" means an insurer, a nonprofit hospital, medical-surgical, dental, and  
12 health service corporation, a health maintenance organization, or a prepaid  
13 dental plan organization.

14 (4) (a) In the underwriting of an insurance contract regarding human  
15 immunodeficiency virus infection and health conditions derived from such  
16 infection, the insurer shall utilize medical tests which are reliable predictors of  
17 risk. Only a test which is recommended by the Centers for Disease Control or  
18 by the Food and Drug Administration is deemed to be reliable for the purposes  
19 of this section. If a specific Centers for Disease Control or Food and Drug  
20 Administration-recommended test indicates the existence or possible  
21 existence of human immunodeficiency virus infection or a health condition  
22 related to the human immunodeficiency virus infection, before relying on a  
23 single test to deny issuance of an insurance contract, limit coverage under an  
24 insurance contract, or to establish the premium for an insurance contract, the  
25 insurer shall follow the applicable Centers for Disease Control or Food and  
26 Drug Administration-recommended test protocol and shall utilize any  
27 applicable Centers for Disease Control or Food and Drug Administration-

1 recommended follow-up tests or series of tests to confirm the indication.

2 (b) Prior to testing, the insurer shall disclose in writing its intent to test the  
3 applicant for the human immunodeficiency virus infection or for a specific  
4 health condition derived therefrom and shall obtain the applicant's written  
5 informed consent to administer the test. Written informed consent shall  
6 include a fair explanation of the test, including its purpose, potential uses and  
7 limitations, the meaning of its results, and the right to confidential treatment  
8 of information. Use of a form prescribed by the department~~[office]~~ shall raise  
9 a conclusive presumption of informed consent.

10 (c) An applicant shall be notified of a positive test result by a physician  
11 designated by the applicant, or, in the absence of such designation, by the  
12 Cabinet for Health and Family Services. The notification shall include:

- 13 1. Face-to-face post-test counseling on the meaning of the test results, the  
14 possible need for additional testing, and the need to eliminate behavior  
15 which might spread the disease to others;
- 16 2. The availability in the geographic area of any appropriate health-care  
17 services, including mental health care, and appropriate social and  
18 support services;
- 19 3. The benefits of locating and counseling any person by whom the  
20 infected person may have been exposed to human immunodeficiency  
21 virus and any person whom the infected person may have exposed to the  
22 virus; and
- 23 4. The availability, if any, of the services of public health authorities with  
24 respect to locating and counseling any person described in subparagraph  
25 3. of this paragraph.

26 (d) A medical test for human immunodeficiency virus infection or for a health  
27 condition derived from the infection shall only be required or given to an

1 applicant for an insurance contract on the basis of the applicant's health  
2 condition or health history, on the basis of the amount of insurance applied  
3 for, or if the test is required of all applicants.

4 (e) An insurer may ask whether an applicant for an insurance contract has been  
5 tested positive for human immunodeficiency virus infection or other health  
6 conditions derived from such infection. Insurers shall not inquire whether the  
7 applicant has been tested for or has received a negative result from a specific  
8 test for human immunodeficiency virus infection or for a health condition  
9 derived from such infection.

10 (f) Insurers shall maintain strict confidentiality of the results of tests for human  
11 immunodeficiency virus infection or a specific health condition derived from  
12 human immunodeficiency virus infection. Information regarding specific test  
13 results shall be disclosed only as required by law or pursuant to a written  
14 request or authorization by the applicant. Insurers may disclose results  
15 pursuant to a specific written request only to the following persons:

- 16 1. The applicant;
- 17 2. A licensed physician or other person designated by the applicant;
- 18 3. An insurance medical-information exchange under procedures that are  
19 used to assure confidentiality, such as the use of general codes that also  
20 cover results of tests for other diseases or conditions not related to  
21 human immunodeficiency virus infection;
- 22 4. For the preparation of statistical reports that do not disclose the identity  
23 of any particular applicant;
- 24 5. Reinsurers, contractually retained medical personnel, and insurer  
25 affiliates if these entities are involved solely in the underwriting process  
26 and under procedures that are designed to assure confidentiality;
- 27 6. To insurer personnel who have the responsibility to make underwriting

1 decisions; and

2 7. To outside legal counsel who needs the information to represent the  
3 insurer effectively in regard to matters concerning the applicant.

4 (g) Insurers shall use for the processing of human immunodeficiency virus-related  
5 tests only those laboratories that are certified by the United States Department  
6 of Health and Human Services under the Clinical Laboratory Improvement  
7 Act of 1967, which permit testing of specimens in interstate commerce, and  
8 which subject themselves to ongoing proficiency testing by the College of  
9 American Pathologists, the American Association of Bioanalysts, or an  
10 equivalent program approved by the Centers for Disease Control.

11 (5) (a) An insurance contract shall not exclude coverage for human  
12 immunodeficiency virus infection. An insurance contract shall not contain  
13 benefit provisions, terms, or conditions which apply to human  
14 immunodeficiency virus infection in a different manner than those which  
15 apply to any other health condition. Insurance contracts which violate this  
16 paragraph shall be disapproved by the commissioner~~executive director~~  
17 pursuant to KRS 304.14-130(1)(a), 304.32-160, and 304.38-050.

18 (b) A health insurance contract shall not be canceled or nonrenewed solely  
19 because a person or persons covered by the contract has been diagnosed as  
20 having or has been treated for human immunodeficiency virus infection.

21 (c) Sexual orientation shall not be used in the underwriting process or in the  
22 determination of which applicants shall be tested for exposure to the human  
23 immunodeficiency virus infection. Neither the marital status, the living  
24 arrangements, the occupation, the gender, the beneficiary designation, nor the  
25 zip code or other territorial classification of an applicant's sexual orientation.

26 (d) This subsection does not prohibit the issuance of accident only or specified  
27 disease insurance contracts.



1        ➔Section 1106. KRS 304.12-030 is amended to read as follows:

2        (1) As used in this section:

3        (a) "Replacement" means any transaction in which a new life insurance policy or  
4               annuity contract is to be purchased and it is known or should be known to the  
5               proposing producer, or to the proposing insurer if there is no producer, that by  
6               reason of the transaction, an existing life insurance policy or annuity contract  
7               has been or is to be:

- 8               1. Lapsed, forfeited, surrendered or partially surrendered, assigned to the  
9                       replacing insurer, or otherwise terminated;
- 10              2. Converted to reduced paid-up insurance, continued as extended term  
11                       insurance, or otherwise reduced in value by the use of nonforfeiture  
12                       benefits or other policy values;
- 13              3. Amended so as to effect either a reduction in benefits or in the term for  
14                       which coverage would otherwise remain in force or for which benefits  
15                       would be paid;
- 16              4. Reissued with any reduction in cash value; or
- 17              5. Used in a financed purchase;

18        (b) "Existing insurer" means the insurance company whose existing life insurance  
19               policy or annuity contract is or will be changed or affected in a manner  
20               described within the definition of replacement transaction;

21        (c) "Replacing insurer" means the insurance company that issues or proposes to  
22               issue a new life insurance policy or annuity contract that replaces an existing  
23               policy or contract or is a financed purchase;

24        (d) "Existing life insurance policy or annuity contract" means any individual life  
25               insurance policy or annuity in force, including a life insurance policy under a  
26               binding or conditional receipt or a life insurance policy or annuity contract  
27               that is within an unconditional refund period;

- 1 (e) "Financed purchase" means the purchase of a new policy involving the actual  
2 or intended use of funds obtained by the withdrawal or surrender of, or by  
3 borrowing from values of, an existing policy to pay all or part of any premium  
4 due on the new policy. If a withdrawal, surrender, or borrowing involving the  
5 policy values of an existing policy is used to pay premiums on a new policy  
6 owned by the same policyholder and issued by the same company within four  
7 (4) months before or thirteen (13) months after the effective date of the new  
8 policy, it is prima facie evidence of the policyholder's intent to finance the  
9 purchase of the new policy with existing policy values. This prima facie  
10 standard does not affect the monitoring obligations of the existing insurer; and  
11 (f) "Direct-response solicitation" means a solicitation through a sponsoring or  
12 endorsing entity or individual solely through mails, telephone, the Internet, or  
13 mass communication media.

- 14 (2) No replacing insurer shall issue any life insurance policy or annuity contract in a  
15 replacement transaction to replace an existing life insurance policy or annuity  
16 contract unless the replacing insurer shall agree in writing with the insured that:

- 17 (a) The new life insurance policy or annuity contract issued by the replacing  
18 insurer will not be contestable by it in the event of such insured's death to any  
19 greater extent than the existing life insurance policy or annuity contract would  
20 have been contestable by the existing insurer had such replacement not taken  
21 place provided, however, that this paragraph shall not apply to that amount of  
22 insurance written and issued which exceeds the amount of the existing life  
23 insurance; and  
24 (b) The policy or contract owner shall have the right to return the policy or  
25 contract within thirty (30) days of the delivery of the policy or contract and  
26 receive an unconditional full refund of all premiums or considerations paid on  
27 it, including any policy fees or charges, or in the case of a variable or market

adjustment policy or contract, a payment of the cash surrender value provided under the policy or contract plus the fees and other charges deducted from the gross premiums or considerations or imposed under such policy or contract.

(3) Unless otherwise specifically included, subsection (2) of this section shall not apply to:

(a) Credit life insurance;

(b) Group life insurance or group annuities where there is no direct solicitation of individuals by an insurance producer. Direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating or enrolling individuals or, when initiated by an individual member of the group, assisting with the selection of investment options offered by a single annuity provider in connection with enrolling that individual. The commissioner~~executive director~~ shall promulgate administrative regulations for group life insurance or group annuity certificates marketed through direct response solicitation;

(c) Group life insurance and annuities used to fund prearranged funeral contracts;

(d) An application to the existing insurer that issued the existing policy or contract when a contractual policy change or conversion privilege is being exercised, or when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner~~executive director~~;

(e) Existing life insurance that is a nonconvertible term life insurance policy which will expire in five (5) years or less and cannot be renewed; or

(f) Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company;

(g) Policies or contracts used to fund:

1. An employee pension or welfare benefit plan that is covered by the

1 Employee Retirement and Income Security Act (ERISA);

- 2 2. A plan described by Sections 402(a), 401(k) or 403(b) of the Internal  
3 Revenue Code, where the plan, for purposes of ERISA, is established or  
4 maintained by an employer;
- 5 3. A governmental or church plan defined in Section 414 of the Internal  
6 Revenue Code, a governmental or church welfare benefit plan, or a  
7 deferred compensation plan of a state or local government or tax exempt  
8 organization under Section 457 of the Internal Revenue Code; or
- 9 4. A nonqualified deferred compensation arrangement established or  
10 maintained by an employer or plan sponsor.

11 Notwithstanding the provisions of this paragraph, subsection (2) of this  
12 section shall apply to policies or contracts used to fund any plan or  
13 arrangement that is funded solely by contributions an employee elects to  
14 make, whether on a pre-tax or after-tax basis, and where the insurer has been  
15 notified that plan participants may choose from among two (2) or more  
16 insurers and there is a direct solicitation of an individual employee by an  
17 insurance producer for the purchase of a contract or policy. As used in this  
18 paragraph, direct solicitation shall not include any group meeting held by an  
19 insurance producer solely for the purpose of educating individuals about the  
20 plan or arrangement or enrolling individuals in the plan or arrangement or,  
21 when initiated by an individual employee, assisting with the selection of  
22 investment options offered by a single insurer in connection with enrolling  
23 that individual employee;

- 24 (h) Where new coverage is provided under a life insurance policy or contract and  
25 the cost is borne wholly by the insured's employer or by an association of  
26 which the insured is a member;
- 27 (i) Immediate annuities that are purchased with proceeds from an existing

contract. Immediate annuities purchased with proceeds from an existing policy are not exempted from the requirements of this section; or

(j) Structured settlements.

(4) No person shall make or issue, or cause to be made or issued, any written or oral statement of a material fact which is untrue or omit to state a material fact necessary in order to make the statements made, in the light of circumstances under which they were made, not misleading with respect to comparisons as to the terms, conditions, or benefits contained in any policy for the purpose of inducing or attempting or tending to induce the policyholder to lapse, forfeit, borrow against, surrender, retain, exchange, modify, convert, or otherwise affect or dispose of any insurance policy.

→Section 1107. KRS 304.12-040 is amended to read as follows:

(1) No person shall file with any public official or make or disseminate any false statement of financial condition of any insurer with intent to deceive.

(2) No person shall make any false entry in any record, report or statement of any insurer or other person required to have records under this code, with intent to deceive the commissioner~~[executive director]~~ or any examiner lawfully appointed to examine into its affairs, or with like intent willfully omit to make a true entry of any material fact pertaining to its business.

→Section 1108. KRS 304.12-090 is amended to read as follows:

(1) No insurer or employee or representative thereof shall knowingly charge, demand, or receive a premium for any insurance policy except in accordance with the applicable filing on file with the commissioner~~[executive director]~~. No such insurer, employee, or representative shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy, or any special favor or advantage in the dividends or other

benefits to accrue thereon, or any valuable consideration or inducements whatever, or give, sell, or purchase, or offer to give, sell, or purchase anything of value whatsoever not specified in the policy, except to the extent provided for in such applicable filing.

(2) No insured named in a policy, nor any employee or representative thereof shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement or reduction of premium, or any special favor or advantage or valuable consideration or inducement.

(3) Subsection (1) and (2) of this section shall not apply as to life insurance and health insurance. Except as expressly provided by law no insurer, employee, or representative shall knowingly permit or offer to make or make any contract of life insurance, life annuity or health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or pay or allow, or give or offer to pay, allow or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not expressed in the contract.

→Section 1109. KRS 304.12-120 is amended to read as follows:

(1) If, after a hearing conducted in accordance with KRS Chapter 13B, the commissioner~~executive-director~~ finds that any person in this state has engaged or is engaging in any act or practice defined in or prohibited under this subtitle, the commissioner~~executive-director~~ shall order the person to desist from the act or practice.

(2) A desist order shall become final upon expiration of the time allowed for appeals from the commissioner's~~executive-director's~~ final order, if no appeal is taken, or, in the event of an appeal, upon final decision of the court if the court affirms the commissioner's~~executive-director's~~ final order or dismisses the appeal. An

1 intervenor in such hearing shall have the right to appeal as provided in subsection  
2 (3) of KRS 304.12-130.

3 (3) In an appeal, to the extent that the commissioner's~~executive director's~~ final order  
4 is affirmed, the court shall issue its own order commanding obedience to the terms  
5 of the commissioner's~~executive director's~~ final order.

6 (4) No final order of the commissioner~~executive director~~ pursuant to this section or  
7 order of court to enforce it shall in any way relieve or absolve any person affected  
8 by the order from any other liability, penalty, or forfeiture under law.

9 ➔Section 1110. KRS 304.12-130 is amended to read as follows:

10 (1) If the commissioner~~executive director~~ believes that any person engaged in the  
11 insurance business is engaging in this state in any method of competition or in any  
12 act or practice in the conduct of such business which is not defined in this subtitle  
13 but that such method of competition is unfair, deceptive, or not in the public  
14 interest, or that such act or practice is unfair or deceptive and that a proceeding by  
15 the commissioner~~him~~ in respect thereto would be in the public interest, the  
16 commissioner~~he~~ shall, after a hearing of which notice of the hearing and of the  
17 charges against the person~~him~~ are given such person, make a written report of his  
18 or her findings of fact relative to such charges and serve a copy thereof upon such  
19 person and any intervenor at the hearing.

20 (2) If such report charges a violation of this subtitle and if such method of competition,  
21 act or practice has not been discontinued, the commissioner~~executive director~~  
22 may, or through the Attorney General, at any time after the service of such report,  
23 cause an action to be instituted to enjoin and restrain such person from engaging in  
24 such method, act, or practice. In such action the court may grant a restraining order  
25 or injunction upon such terms as may be just; but the people of this Commonwealth  
26 shall not be required to give security before the issuance of any such order or  
27 injunction. If a stenographic record of the proceedings in the hearing before the

1 commissioner~~[executive director]~~ was made, a certified transcript thereof including  
 2 all evidence taken and the report and findings shall be received in evidence in such  
 3 action.

4 (3) If the commissioner's~~[executive director's]~~ report made pursuant to subsection (1)  
 5 of this section or order on hearing made pursuant to KRS 304.12-120 does not  
 6 charge a violation of this subtitle, then any intervenor in the proceedings may appeal  
 7 therefrom within the time and in the manner provided in this code for appeals from  
 8 the commissioner~~[executive director]~~ generally.

9 ➔Section 1111. KRS 304.12-150 is amended to read as follows:

10 Every debtor, borrower, or purchaser of property with respect to which insurance of any  
 11 kind is required in connection with a debt or loan on the property shall be informed by the  
 12 creditor or lender of his or her right of free choice in the selection of the agent and  
 13 insurer through or by which such insurance is to be placed. There shall be no interference  
 14 either directly or indirectly with the borrower's, debtor's, or purchaser's free choice of an  
 15 agent and of an insurer, the creditor or lender shall not collect a separate charge for the  
 16 handling of insurance required in connection with a loan or extension of credit based on  
 17 the consumer's choice of agent or insurer, and the creditor or lender shall not refuse an  
 18 adequate policy so tendered by the borrower, debtor, or purchaser. Upon notice of any  
 19 refusal of an adequate policy, the commissioner~~[executive director]~~ shall order the  
 20 creditor or lender to accept the tendered policy, if he or she determines that such refusal  
 21 is not in accordance with the requirements set out in subsection (2) of KRS 304.12-140.  
 22 Failure to comply with the order of the commissioner~~[executive director]~~ shall be  
 23 deemed a violation of this section.

24 ➔Section 1112. KRS 304.12-240 is amended to read as follows:

25 (1) As used in this section, unless the context requires otherwise:

26 (a) "Preneed funeral contract or prearrangement" means an agreement by or for an  
 27 individual before that individual's death relating to the purchase or provision



1 of specific funeral or cemetery merchandise or services; and

2 (b) "Agent" has the meaning provided in KRS 367.932.

3 (2) The commissioner~~executive director~~ shall adopt regulations requiring life insurers  
4 to provide disclosure to consumers when life insurance or annuities are used to fund  
5 preneed funeral contracts or prearrangements.

6 (3) Life insurance and annuity benefits used to fund preneed funeral contracts or  
7 prearrangements shall not be paid by a life insurer until the agent has proven the  
8 death of the person for whose service the premiums were paid by furnishing the life  
9 insurer with a verified or certified copy of a record verifying the death, issued by the  
10 state registrar of the Vital Statistics Branch or its successor agency as authorized by  
11 KRS Chapter 213, or a provisional certificate of death as described in KRS  
12 213.076.

13 ➔Section 1113. KRS 304.12-257 is amended to read as follows:

14 The commissioner~~executive director~~ shall have the authority to promulgate regulations  
15 to protect service members of the United States Armed Forces from dishonest and  
16 predatory insurance sales practices by declaring certain identified practices to be false,  
17 misleading, deceptive, or unfair in accordance with the Military Personnel Financial  
18 Services Protection Act of 2006, Pub. L. No. 109-290.

19 ➔Section 1114. KRS 304.13-011 is amended to read as follows:

20 As used in this subtitle, unless the context requires otherwise:

21 (1) A "market" is the interaction between buyers and sellers consisting of a product  
22 market component and a geographic market component. A product market  
23 component consists of identical or readily substitutable products including but not  
24 limited to consideration of coverage, policy terms, rate classifications, and  
25 underwriting. A geographic market component is a geographical area in which  
26 buyers have a reasonable degree of access to insurance sales outlets. Determination  
27 of a geographic market component shall consider existing market patterns.

- 1 (2) "Supplementary rating information" includes any manual or plan of rates,  
2 classification, rating schedule, minimum premium, policy fees, rating rules, or any  
3 other similar information needed to determine the applicable rate or premium. This  
4 shall include underwriting rules, but only to the extent necessary to determine the  
5 rate or premium that will be applicable to a risk should the insurer decide to provide  
6 coverage. This does not include guidelines that relate to the selection of those risks  
7 that are acceptable to an insurer.
- 8 (3) "Supporting information" is the experience and judgment of the filer and the  
9 experience or data of other insurers or organizations relied on by the filer, the  
10 interpretation of any other data relied on by the filer, descriptions of methods used  
11 in making the rates, and any other information required to be filed by the  
12 commissioner~~[executive director]~~.
- 13 (4) "Personal risks" means homeowners, tenants, private passenger nonfleet  
14 automobiles, mobile homes, and other property and casualty insurance for personal,  
15 family, or household needs.
- 16 (5) "Commercial risks" are any kinds of risks that are not personal risks.
- 17 (6) "Joint underwriting" is a voluntary arrangement established to provide insurance  
18 coverage for a risk pursuant to which two (2) or more insurers jointly contract with  
19 the insured at a price and under policy terms agreed on between the insurers.
- 20 (7) A "pool" is a voluntary arrangement, other than by a contract of reinsurance,  
21 established on a general and continuing basis pursuant to which two (2) or more  
22 insurers participate in the sharing of risks on a predetermined basis. A pool may  
23 operate through an association, syndicate or other pooling agreement.
- 24 (8) A "residual market mechanism" is an agreement, either voluntary or mandated by  
25 law, involving participation by insurers in the equitable apportionment among them  
26 of insurance that may be afforded applicants who are unable to obtain insurance  
27 through ordinary methods.

- 1 (9) An "advisory organization" is any entity, including its affiliates or subsidiaries,  
2 which either has two (2) or more member insurers or is controlled either directly or  
3 indirectly by two (2) or more insurers and which assists insurers in ratemaking  
4 related activities. Two (2) or more insurers having a common ownership or  
5 operating in this state under common management or control constitute a single  
6 insurer for purposes of this definition.
- 7 (10) A "competitive market" is a market that has not been found to be noncompetitive  
8 pursuant to KRS 304.13-041 and for which no such order is in effect.
- 9 (11) A "noncompetitive market" is a market for which there is an order in effect pursuant  
10 to KRS 304.13-041 that a reasonable degree of competition does not exist.
- 11 (12) "Trending" is any procedure for projecting developed losses to the average date of  
12 loss, or premiums or exposures to the average date of writing, for the period during  
13 which the policies are to be effective.
- 14 (13) "Expenses" are those portions of any rate attributable to acquisition, field  
15 supervision, and collection expenses, general expenses, and premium taxes,  
16 licenses, and fees.
- 17 (14) "Profit" is the portion of any rate attributable to funds needed for growth,  
18 contingencies, and return to stockholders.
- 19 (15) "Pure premium" means the loss cost per unit of exposure excluding all loss  
20 adjustment expenses.
- 21 (16) "Classification system" or "classification" means the process of grouping risks with  
22 similar risk characteristics so that differences in cost may be recognized.
- 23 (17) "Developed losses" means losses (including loss adjustment expenses) adjusted,  
24 using standard actuarial techniques, to their ultimate anticipated value.
- 25 (18) "Experience rating" means a rating procedure utilizing past insurance experience of  
26 the individual policyholder to forecast future losses by measuring the policyholder's  
27 loss experience against the loss experience of policyholders in the same

- 1 classification to produce a prospective premium credit, debit, or unity modification.
- 2 (19) "Form provider" means a person who prepares, files, and distributes policy contract  
3 forms and endorsements and consults with members, subscribers, customers, or  
4 others relative to their use and application, but is not an advisory organization as  
5 defined in this subtitle.
- 6 (20) "Loss adjustment expenses" means the expenses incurred by the insurer in the  
7 course of settling claims.
- 8 (21) "Prospective loss costs" means that portion of a rate that does not include  
9 provisions for expenses (other than loss adjustment expenses) or profit, and are  
10 based on historical aggregate losses or output from simulation models and loss  
11 adjustment expenses adjusted through development to their ultimate value and  
12 projected through trending to a future point in time. Loss costs, derived in part or  
13 entirely upon output from simulation models, must be approved by the  
14 commissioner~~executive director~~ before they become effective.
- 15 (22) "Rate" means the expected value of the future cost of insurance per exposure unit  
16 which accounts for the treatment of losses, expenses, and profit prior to any  
17 application of individual risk variations based on loss or expense considerations, but  
18 does not include minimum premium.
- 19 (23) "Special assessments" means guaranty fund assessments, residual market  
20 mechanism assessments, and other similar assessments which are included in  
21 ratemaking. Special assessments shall not be considered as either expenses or  
22 losses. Additional charges collected by the insurer and returned to a governmental  
23 agency on behalf of an insured are not special assessments. Examples of these  
24 additional charges include, but are not limited to, the special fund charge for  
25 workers' compensation imposed by KRS Chapter 342, local government premium  
26 tax imposed by KRS 91A.080, and the Department of Revenue surcharge imposed  
27 by KRS Chapter 136.

1 (24) "Statistical agent" means an entity that has been licensed by the  
 2 commissioner~~[executive director]~~ to collect statistics from insurers and provide  
 3 reports developed from these statistics to the commissioner~~[executive director]~~ for  
 4 the purpose of fulfilling the statistical reporting obligations of those insurers under  
 5 this chapter.

6 ➔Section 1115. KRS 304.13-041 is amended to read as follows:

7 (1) A competitive market for any line of insurance is presumed to exist unless the  
 8 commissioner~~[executive director]~~, after a hearing, determines that a reasonable  
 9 degree of competition does not exist in the market for such line and issues an order  
 10 to that effect. Such an order shall expire no later than one (1) year after it is issued.  
 11 In determining whether a reasonable degree of competition exists, the  
 12 commissioner~~[executive director]~~ shall consider all relevant information pertaining  
 13 to the market and the opportunities available to consumers in the market to acquire  
 14 pricing and other consumer information, and to compare and obtain insurance from  
 15 competing insurers.

16 (2) The commissioner~~[executive director]~~ shall monitor the degree of competition in  
 17 this Commonwealth. In doing so, the commissioner~~[he]~~ may utilize existing  
 18 relevant information or ~~[he]~~may develop new relevant information. The activities  
 19 may be conducted internally within the Department~~[Office]~~ of Insurance, in  
 20 cooperation with other state insurance departments, through outside contractors, or  
 21 in any other appropriate manner. The relevant information in determining the  
 22 competitiveness of a specific market may include the number of insurers actively  
 23 engaged in providing coverage, market shares, and changes in market shares and  
 24 ease of entry.

25 ➔Section 1116. KRS 304.13-051 is amended to read as follows:

26 (1) In a competitive market, every insurer shall file with the commissioner~~[executive~~  
 27 ~~director]~~ rates and supplementary information to be used in this state for

1 commercial risks as designated by the commissioner~~[executive director]~~ and for all  
 2 personal risks. The rates and supplementary rate information shall be filed not later  
 3 than fifteen (15) days after the date of first use of the rates, unless the  
 4 commissioner~~[executive director]~~ finds after a hearing that an insurer's rates require  
 5 closer supervision because of the insurer's financial condition. On a finding, rates  
 6 for both personal and commercial risks, supplementary rate information, and  
 7 supporting information shall be filed with the commissioner~~[executive director]~~ at  
 8 least thirty (30) days before the effective date of the rates. An order shall expire no  
 9 later than one (1) year after it is issued.

10 (2) In a noncompetitive market, every insurer shall file with the  
 11 commissioner~~[executive director]~~ all rates for that market, supplementary rate  
 12 information, and supporting information at least thirty (30) days before the proposed  
 13 effective date of the rates. On application of the filer, the commissioner~~[executive~~  
 14 ~~director]~~ may authorize an earlier effective date.

15 (3) Any rate filing in effect at the time the commissioner~~[executive director]~~  
 16 determines that competition does not exist pursuant to KRS 304.13-041 shall be  
 17 deemed to be effective until disapproved pursuant to the procedures and rating  
 18 standards of this chapter.

19 (4) Every insurer shall file with the commissioner~~[executive director]~~ all rating  
 20 manuals and underwriting rules that it uses in this state not later than fifteen (15)  
 21 days after they become effective. Manuals, rules, and guidelines must be adhered to  
 22 until amended. The commissioner~~[executive director]~~ may exempt an insurer from  
 23 filing supporting information if it files by reference, with or without deviation, to a  
 24 filing which is in effect for another insurer or an advisory organization.

25 (5) (a) No insurer shall place into effect any rates, manuals, or underwriting rules  
 26 which it proposes to use pursuant to subsection (1) or (4) of this section if the  
 27 rates, manuals or underwriting rules will result in an increase or decrease of

more than twenty-five percent (25%) from the insurer's then existing rates for any classification of risks in any of its rating territories within a twelve (12) month period of time.

(b) Any insurer which proposes to change its then existing rates, manuals, or underwriting rules so as to effectively increase or decrease the rates of any classification of risks within any rating territory more than twenty-five percent (25%) within a twelve (12) month period shall file all the rates and supplemental rating information which shall not become effective until approved by the commissioner~~executive director~~.

(6) Rates and supplemental rating information for a residual market mechanism shall not become effective until approved by the commissioner~~executive director~~.

(7) The commissioner~~executive director~~ shall review filings made in accordance with subsections (2), (5)(b) and (6) of this section as soon as reasonably possible after they have been made in order to determine whether they meet the applicable requirements of this chapter. Each filing shall be on file for a waiting period of thirty (30) days before it becomes effective, which period may be extended by the commissioner~~executive director~~ for an additional period not to exceed thirty (30) days if he or she gives written notice within the waiting period to the insurer which made the filing that additional time is needed for consideration of the filing. The commissioner~~executive director~~ may, when he or she deems it to be in the public interest, hold a public hearing on any filing before the filing becomes effective to determine whether the filing meets the requirements of this subtitle. In the event that a hearing is held under the provisions of this subsection, the waiting periods specified in this subsection shall not begin to run until thirty (30) days after the close of the hearing. The burden of establishing that the filing under consideration meets the requirements of this subtitle is on the insurer which makes the filing. A filing shall be deemed to meet the requirements of this subtitle unless disapproved

1 by the commissioner~~[executive director]~~ within the waiting period or any extension  
2 thereof.

- 3 (8) At any hearing concerning an increase in worker's compensation rates conducted  
4 pursuant to subsection (7), the commissioner~~[executive director]~~ may approve a  
5 rate other than one that has been proposed by the filer if it is justified by the  
6 evidence presented at the hearing.

7 ➔Section 1117. KRS 304.13-053 is amended to read as follows:

- 8 (1) Within sixty (60) days of December 12, 1996, the licensed workers' compensation  
9 advisory organizations shall file with the commissioner~~[executive director]~~ an  
10 estimate of changes in prospective workers' compensation losses attributable to any  
11 net savings under 1996 (1st Extra. Sess.) Ky. Acts ch. 1. Within sixty (60) days of  
12 receipt of the workers' compensation filing, the commissioner~~[executive director]~~  
13 shall approve or disapprove the filing. Insurers may incorporate these approved  
14 estimates in the filings made pursuant to subsection (2) of this section.

- 15 (2) Insurers shall file workers' compensation rates incorporating an actuarially-justified  
16 estimate of changes in prospective losses attributable to any net savings under 1996  
17 (1st Extra. Sess.) Ky. Acts ch. 1 for use with workers' compensation policies issued  
18 or renewed after May 1, 1997. Workers' compensation rates shall be filed with and  
19 approved by the commissioner~~[executive director]~~ as provided in KRS 304.13-  
20 051(2).

- 21 (3) Unless the commissioner~~[executive director]~~ enters an order pursuant to KRS  
22 304.13-041 declaring workers' compensation to be a noncompetitive market, rates  
23 filed for use after December 31, 1998, shall be filed pursuant to KRS 304.13-  
24 051(1).

- 25 (4) Notwithstanding the provisions of KRS 304.13-051 to the contrary, after December  
26 31, 1998, no insurer providing workers' compensation insurance shall place into  
27 effect any rates, manuals, or underwriting rules for workers' compensation insurance



which it proposes to use pursuant to KRS 304.13-051(1) or (4) if the rates, manuals, or underwriting rules will result in an increase or decrease of more than fifteen percent (15%) from the workers' compensation insurer's then-existing workers' compensation insurance rates for any classification of risks within a twelve (12) month period of time.

- (5) After December 31, 1998, any workers' compensation insurer which proposes to change its then-existing rates, manuals, or underwriting rules so as to effectively increase or decrease the rates of any classification of risks more than fifteen percent (15%) within a twelve (12) month period shall file all the rates and supplemental rating information which shall not become effective until approved by the commissioner~~executive director~~ pursuant to the provisions of KRS 304.13-051.

→ Section 1118. KRS 304.13-055 is amended to read as follows:

With respect to any filing which, if approved, would result in a reduction of rates, the commissioner~~executive director~~ shall immediately order the proposed rates to be effective. If upon the commissioner's~~executive director's~~ review of the filing or as a result of a public hearing it appears that the proposed rates should be further reduced, the commissioner~~executive director~~ may order the insurer or rating organization to show cause within thirty (30) days why such rates should not be further reduced in accordance with the order.

→ Section 1119. KRS 304.13-057 is amended to read as follows:

- (1) Every insurer shall provide to the commissioner~~executive director~~ information to demonstrate to what extent the insurer's rates are based upon its Kentucky experience.
- (2) Every insurer shall provide to the commissioner~~executive director~~ information to demonstrate its compliance with the requirements contained in KRS 304.13-410 which requires workers' compensation rates to be based on the net experience of an employer policyholder who has selected a deductible policy as authorized by KRS

1 304.13-400.

2 ➔Section 1120. KRS 304.13-061 is amended to read as follows:

3 (1) The information furnished in support of a filing may include:

- 4 (a) The experience or judgment of the insurer;
- 5 (b) The insurer's interpretation of any statistical data it relies on;
- 6 (c) The experience of other insurers; and
- 7 (d) Any other relevant factors.

8 (2) The commissioner~~[executive director]~~ may adopt reasonable administrative  
 9 regulations for use by insurers to record and report to the commissioner~~[executive~~  
 10 ~~director]~~ their rates and other information determined by the  
 11 commissioner~~[executive director]~~ to be necessary or appropriate for the  
 12 administration of KRS 304.13-011 to 304.13-161, and the effectuation of its  
 13 purposes. The commissioner~~[executive director]~~ may adopt reasonable  
 14 administrative regulations to assure that the experience of all insurers is made  
 15 available at least annually in such form and detail as is necessary to aid in  
 16 determining whether rating systems comply with the standards set forth in this  
 17 subtitle. The commissioner~~[executive director]~~ may designate one (1) or more  
 18 advisory organizations or statistical agents to assist him or her in gathering,  
 19 compiling, and reporting such information, which shall be a matter of public record.  
 20 The scope of these rules may include the data which must be reported by insurers,  
 21 definitions of data elements, the timing and frequency of statistical reporting by  
 22 insurers, data quality standards, data edit and audit requirements, data retention  
 23 requirements, reports to be generated by advisory organizations or statistical agents  
 24 to fulfill the requirements of this section, and the timing of such reports.

25 (3) The commissioner~~[executive director]~~ may promulgate administrative regulations  
 26 for the interchange of data necessary for the application of rating plans.

27 (4) In order to further uniform administration of rate regulatory laws, the

1        commissioner~~executive director~~ and every insurer, advisory organization, and  
2        statistical agent may exchange information and experience data with insurance  
3        supervisory officials, insurers, and advisory organizations in other states and may  
4        consult with them with respect to the application of rating systems and the  
5        collection of statistical data.

6        ➔ Section 1121. KRS 304.13-063 is amended to read as follows:

7        (1) Any schedule of rates or rating plan for automobile liability and physical damage  
8        insurance filed with the commissioner~~executive director~~ shall provide for an  
9        appropriate reduction in premium charges for a period of at least three (3) years and  
10       up to five (5) years for those insureds fifty-five (55) years of age and older who  
11       successfully complete a motor vehicle accident prevention course meeting standards  
12       set by the Transportation Cabinet or insureds of any age who complete a defensive  
13       driving course provided by the United States Armed Forces to members of the  
14       United States Armed Forces. The reduction in premium charges for members of the  
15       United States Armed Forces who complete a defensive driving course provided by  
16       the United States Armed Forces shall be actuarially sound. There shall, however, be  
17       no reduction in premiums for a self-instructed course or for a course which does not  
18       provide for classroom or field driving instruction for a minimum number of hours,  
19       to be determined by the Transportation Cabinet.

20       (2) All insurance companies writing automobile liability and physical damage  
21       insurance in Kentucky shall allow an appropriate reduction in premium charges to  
22       all eligible persons subject to this section.

23       (3) Upon successfully completing the approved course, each participant shall be issued  
24       by the course's sponsoring agency a certificate which shall be the basis of  
25       qualification for the discount on insurance.

26       (4) Each participant shall take an approved course each five (5) years to continue to be  
27       eligible for the discount on insurance.

(5) The Transportation Cabinet is hereby empowered to promulgate regulations setting standards for the motor vehicle accident prevention course described in subsection (1) of this section.

(6) No discount shall be available under this section to those completing the prescribed motor vehicle accident prevention course under a court order as a result of a motor vehicle conviction.

➔Section 1122. KRS 304.13-065 is amended to read as follows:

For motor vehicle insurance rates, whether in a competitive market or a noncompetitive market, appropriate reductions in premium charges for comprehensive coverage shall be applied to those motor vehicles equipped with an antitheft device as provided in KRS 304.20-410 to 304.20-440 which has been approved by the commissioner~~executive director~~.

➔Section 1123. KRS 304.13-071 is amended to read as follows:

(1) Existing rates in a noncompetitive market may be disapproved pursuant to the rating standards of this chapter after a hearing. Rates that have been filed in a noncompetitive market but that have not become effective may be disapproved pursuant to the rating standards of this chapter without a hearing. However, any insurer whose rates have been disapproved without a hearing shall be given a hearing on a written request made within thirty (30) days after the disapproval order. Hearings conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B. If a rate is disapproved, the commissioner~~executive director~~ shall issue a final order specifying the reasons for disapproval. Any party aggrieved by the final order of the commissioner~~executive director~~ may appeal as provided in KRS 304.2-370. The effect of a final order shall be stayed during the pendency of the appeal and the existing rate shall remain in effect until the final conclusion thereof.

(2) At any hearing concerning an increase in worker's compensation rates conducted

1 pursuant to subsection (1), the commissioner~~[executive director]~~ may approve a  
 2 rate other than one that has been proposed by the filer if it is justified by the  
 3 evidence presented at the hearing.

4 ➔Section 1124. KRS 304.13-081 is amended to read as follows:

5 (1) All rates, supplementary rate information, and supporting information filed under  
 6 KRS 304.13-011 to 304.13-161 shall be open to public inspection at any reasonable  
 7 time. Copies may be obtained by any person on request and on payment of a charge  
 8 specified in Subtitle 4 of this chapter.

9 (2) The commissioner~~[executive director]~~ shall utilize, develop, or cause to be  
 10 developed a consumer information system that will provide and disseminate price  
 11 and other relevant information on a readily available basis to purchasers of  
 12 homeowners or private passenger insurance. The commissioner~~[executive director]~~  
 13 may utilize, develop, or cause to be developed a consumer information system  
 14 which will provide and disseminate price and other relevant information on a  
 15 readily available basis to purchasers of insurance for commercial risks and personal  
 16 risks not otherwise specified in this section. Such activity may be conducted  
 17 internally within the department~~[office]~~, in cooperation with other state insurance  
 18 departments, through outside contractors, or in any other appropriate manner. To  
 19 the extent the commissioner~~[executive director]~~ considers necessary and  
 20 appropriate, insurers, advisory organizations, statistical agents, and other persons or  
 21 organizations involved in conducting the business of insurance in this state, to  
 22 which this section applies, shall cooperate with the commissioner~~[executive~~  
 23 ~~director]~~ in the development and utilization of a consumer information system. The  
 24 reasonable cost of developing a consumer information system shall be assessed  
 25 against insurers subject to this chapter on an equitable basis.

26 ➔Section 1125. KRS 304.13-091 is amended to read as follows:

27 (1) No advisory organization, statistical agent, or form provider shall provide any

1 otherwise permitted service, and no insurer shall utilize the services unless the  
 2 organization has obtained a license pursuant to subsection (3) of this section.

3 (2) No advisory organization, statistical agent, or form provider shall refuse to supply  
 4 any services for which it is licensed in Kentucky to any insurer authorized to do  
 5 business in Kentucky and offering to pay the fair and usual compensation for the  
 6 services.

7 (3) An advisory organization, statistical agent, or form provider applying for a license  
 8 shall include with its application:

9 (a) A copy of its constitution, charter, articles of organization, agreement,  
 10 association or incorporation, bylaws, plan of operation, and any other rules or  
 11 regulations governing the conduct of its business;

12 (b) A list of its members, subscribers, and customers;

13 (c) The name and address of one (1) or more residents of Kentucky upon whom  
 14 notices, process affecting it, or orders of the commissioner~~executive director~~  
 15 may be served;

16 (d) A statement showing its technical qualifications for acting in the capacity for  
 17 which it seeks a license;

18 (e) A biography of the ownership and management of the organization; and

19 (f) Any other relevant information and documents that the  
 20 commissioner~~executive director~~ may require.

21 (4) Every organization which has applied for a license shall notify the  
 22 commissioner~~executive director~~ of every material change in the facts or in the  
 23 documents on which its application was based. Any amendment to a document filed  
 24 under this section shall be filed at least thirty (30) days before it becomes effective.

25 (5) If the commissioner~~executive director~~ finds that the applicant and the natural  
 26 persons through whom it acts are competent, trustworthy, and technically qualified  
 27 to provide the services proposed, and that all requirements of the law are met, he or

1 she shall issue a license specifying the authorized activity of the applicant. The  
 2 commissioner~~executive director~~ shall not issue a license if the proposed activity  
 3 would tend to create a monopoly or to substantially lessen the competition in any  
 4 market. At the request of the licensee, licenses issued under this section may be  
 5 renewed on an annual basis.

6 (6) Licenses issued pursuant to this section shall remain in effect for one (1) year  
 7 unless:

8 (a) The licensee fails to pay fees required by law for the continuance or renewal  
 9 of its license;

10 (b) The licensee withdraws from the state; or

11 (c) The license is suspended or revoked.

12 The commissioner~~executive director~~ may at any time, after a hearing to be  
 13 conducted in accordance with the provisions of this chapter and KRS 304.2-310,  
 14 revoke or suspend the license of an advisory organization, statistical agent, or form  
 15 provider which does not comply with the requirements and standards of this  
 16 chapter.

17 (7) The commissioner~~executive director~~ shall by administrative regulation establish a  
 18 written summary of information that shall be included in an application for licenses  
 19 issued under this section.

20 (8) Advisory organizations wishing to operate as statistical agents or form providers  
 21 may be so authorized under their license as an advisory organization. A separate  
 22 license is not required.

23 (9) Each advisory organization, statistical agent, and form provider shall pay fees as  
 24 required by KRS 304.4-010 for the application, continuance, or renewal of its  
 25 license.

26 ➔Section 1126. KRS 304.13-100 is amended to read as follows:

27 Upon the written application of the insured, stating his or her reasons therefor, filed with

1 and approved by the commissioner~~[executive director]~~, a rate in excess of that provided  
 2 by a filing otherwise applicable may be used on any specific risk.

3 ➔ Section 1127. KRS 304.13-121 is amended to read as follows:

4 Any advisory organization in addition to other activities not prohibited, is authorized, on  
 5 behalf of its members and subscribers, to:

- 6 (1) Collect statistical data from members, subscribers, or any other source;
- 7 (2) Develop statistical plans including territorial and class definitions;
- 8 (3) Prepare, file, and distribute prospective loss costs which may include provisions for  
 9 special assessments. Loss costs, derived in part or entirely upon output form  
 10 simulation models, must be approved by the commissioner~~[executive director]~~  
 11 before they become effective;
- 12 (4) Prepare, file, and distribute manuals of rating rules, rating schedules, and other  
 13 supplementary rating information that do not include final rates, expense provisions,  
 14 profit provisions, or minimum premiums;
- 15 (5) Prepare, file, and distribute factors, calculations, or formulas pertaining to  
 16 classification, territory, increased limits, and other variables;
- 17 (6) Distribute information that is required or directed to be filed with the  
 18 commissioner~~[executive director]~~;
- 19 (7) Conduct research and on-site inspections in order to prepare classifications of  
 20 public fire defenses, and to consult with public officials regarding public fire  
 21 protection as it would affect members, subscribers and others;
- 22 (8) Conduct research in order to discover, identify, and classify information relating to  
 23 causes or prevention of losses;
- 24 (9) Conduct research relating to the impact of statutory changes upon prospective loss  
 25 costs and special assessments;
- 26 (10) Prepare, file, and distribute policy forms and endorsements and consult with  
 27 members, subscribers, and others relative to their use and application;



- 1 (11) Conduct research and on-site inspections for the purpose of providing risk  
2 information relating to individual structures;
  - 3 (12) Conduct on-site inspections to determine rating classifications for individual  
4 insureds;
  - 5 (13) For workers' compensation insurance, establish a committee which may include  
6 insurance company representatives to review the determination of the rating  
7 classification for individual insureds and suggest modifications to the classification  
8 system, pursuant to KRS 304.13-167(1);
  - 9 (14) Collect, compile, and publish past and current prices of individual insurers, if such  
10 information is also made available to the public at a reasonable cost;
  - 11 (15) Collect and compile exposure and loss experience for the purpose of individual risk  
12 experience ratings;
  - 13 (16) File final rates, at the direction of the commissioner~~[executive director]~~, for residual  
14 market mechanisms; and
  - 15 (17) Furnish any other services, as approved or directed by the commissioner~~[executive~~  
16 ~~director]~~, related to those enumerated in this section.
- 17 ➔Section 1128. KRS 304.13-131 is amended to read as follows:
- 18 (1) No insurer or advisory organization shall make any arrangement with any other  
19 insurer, advisory organization, or other person that has the purpose or effect of  
20 unreasonably restraining trade or unreasonably lessening competition in the  
21 business of insurance.
  - 22 (2) No insurer or advisory organization shall:
    - 23 (a) Attempt to monopolize, or combine, or conspire with any other person to  
24 monopolize an insurance market; or
    - 25 (b) Engage in a boycott, on a concerted basis, of an insurance market.
  - 26 (3) No insurer shall agree with any other insurer or with an advisory organization to  
27 mandate adherence to, or to mandate use of, any rate, prospective loss cost, rating

1 plan, rating schedule, rating rule, policy or bond form, rate classification, rate  
 2 territory, underwriting rule, survey, inspection or similar material, except as needed  
 3 to facilitate the reporting of statistics to advisory organizations, statistical agents, or  
 4 the commissioner~~[executive director]~~. The fact that two (2) or more insurers,  
 5 whether or not members or subscribers of an advisory organization, use consistently  
 6 or intermittently the same rates, prospective loss cost, rating plans, rating schedules,  
 7 rating rules, policy or bond forms, rate classifications, rate territories, underwriting  
 8 rules, surveys, or inspections or similar materials is not sufficient in itself to support  
 9 a finding that an agreement exists.

- 10 (4) Two (2) or more insurers having a common ownership or operating in this state  
 11 under common management or control may act in concert between or among  
 12 themselves with respect to any matters pertaining to those activities authorized in  
 13 this chapter as if they constituted a single insurer.

14 ➔Section 1129. KRS 304.13-141 is amended to read as follows:

- 15 (1) The commissioner~~[executive director]~~ may examine any insurer, pool, advisory  
 16 organization, statistical agent, form provider, or residual market or joint  
 17 underwriting mechanism as deemed necessary to ascertain compliance with this  
 18 chapter. Any examination made by the commissioner~~[executive director]~~ or by  
 19 examiners designated by the commissioner~~[him]~~ shall be at the expense of the  
 20 organization examined as specified in Subtitle 2 of KRS Chapter 304.
- 21 (2) Every insurer, pool, advisory organization, statistical agent, and residual market or  
 22 joint underwriting mechanism shall maintain reasonable records, adapted to its  
 23 method of operation, containing its experience or the experience of its members.  
 24 Records shall include the statistics and other information used by it in its activities.  
 25 The records shall be available at all reasonable times and at a reasonable location to  
 26 enable the commissioner~~[executive director]~~ to determine whether the activities of  
 27 an insurer, pool, advisory organization, statistical agent, residual market or joint

1 underwriting mechanism are in compliance with this chapter.

2 (3) In lieu of an examination, the commissioner~~executive director~~ may accept the  
3 report of an examination by the insurance supervisory official of another state, if the  
4 report is made pursuant to the laws of that state.

5 ➔Section 1130. KRS 304.13-151 is amended to read as follows:

6 (1) Notwithstanding KRS 304.13-131(2)(a), insurers participating in joint underwriting,  
7 joint reinsurance pools, or residual market mechanisms may, in connection with  
8 such activity, cooperate with each other in the making of rates, rating systems,  
9 policy forms, underwriting rules, surveys, inspections and investigations, the  
10 furnishing of loss and expense statistics or other information, or carrying on  
11 research. Joint underwriting, joint reinsurance pools, and residual market  
12 mechanisms shall not be deemed advisory organizations.

13 (2) Except to the extent modified by this section, insurers, joint underwriting, joint  
14 reinsurance pool and residual market mechanism activities are subject to the  
15 provisions of this chapter.

16 (3) Every pool shall file with the commissioner~~executive director~~ a copy of its  
17 constitution, bylaws, rules, and regulations governing its activities, and articles of  
18 incorporation, agreement, or association. It shall also file with the  
19 commissioner~~executive director~~ a list of its members and the name and address of  
20 a resident of this state on whom notices or orders of the commissioner~~executive~~  
21 ~~director~~ or process may be served, and any changes in amendments or changes in  
22 the foregoing.

23 (4) Any residual market mechanism, plan, or agreement to implement a residual market  
24 mechanism, and any changes or amendments in the plan shall be submitted in  
25 writing to the commissioner~~executive director~~ for consideration and approval,  
26 together with any other information as may be reasonably required. The  
27 commissioner~~executive director~~ shall approve only those agreements that he or

1 she finds contemplates both the use of rates which meet the standards of this chapter  
 2 and activities and practices, that are not unfair, unreasonable, or otherwise  
 3 inconsistent with the provisions of this chapter. At any time after any agreements  
 4 are in effect, the commissioner~~executive director~~ may review the practices and  
 5 activities of the adherents to these agreements and if, after a hearing, the  
 6 commissioner~~executive director~~ finds that any practice or activity is unfair or  
 7 unreasonable, or is otherwise inconsistent with the provisions of this chapter, the  
 8 commissioner~~executive director~~ may issue a written order to the parties and either  
 9 require the discontinuance of these acts or revoke approval of any such agreement.

10 (5) If the commissioner~~executive director~~ finds after a hearing that any activity or  
 11 practice of an insurer participating in joint underwriting or a pool is unfair, is  
 12 unreasonable, will tend to lessen competition in any market, or is otherwise  
 13 inconsistent with the provisions or purposes of this chapter, an order may be issued  
 14 requiring the discontinuance of the activity or practice.

15 (6) As a condition of its authority under this chapter to transact casualty insurance (as  
 16 defined in KRS 304.5-070) in this state, every insurer so authorized shall become  
 17 and remain a signatory to the "Kentucky automobile insurance plan" as it is  
 18 presently formulated or as it is hereafter amended with the approval of the  
 19 commissioner~~executive director~~. The "Kentucky automobile insurance plan" shall  
 20 be deemed to be a mandated "residual market mechanism" as defined in KRS  
 21 304.13-011(8).

22 ➔Section 1131. KRS 304.13-161 is amended to read as follows:

23 (1) Every insurer or advisory organization shall provide within this state reasonable  
 24 means whereby any person aggrieved by the application of its rating system may be  
 25 heard on written request to review the manner in which the rating system has been  
 26 applied. If the insurer or advisory organization grants the request, the review shall  
 27 be conducted within ninety (90) days of receiving the request. If the insurer or

1 advisory organization fails to grant or rejects a request within thirty (30) days, the  
 2 aggrieved person may proceed in the same manner as if the review produced no  
 3 change in the application of the rate.

4 (2) Any party affected by the action made on the request for review may within thirty  
 5 (30) days of written notice of action appeal to the commissioner~~executive director~~  
 6 for further review of the application of the rating system. The  
 7 commissioner~~executive director~~ shall hold a hearing in accordance with KRS  
 8 Chapter 13B on a showing of good cause. The commissioner~~executive director~~  
 9 may after the hearing issue a final order affirming, modifying, or reversing the  
 10 action of the insurer or advisory organization.

11 (3) For workers' compensation coverage, each insurer or agent shall notify in writing  
 12 each insured at the time a workers' compensation insurance policy is issued or  
 13 renewed on or after May 1, 1997, of the insured's rights afforded by this section.  
 14 The written notice required in this subsection shall apply only to workers'  
 15 compensation insurers and shall be provided in the manner and format prescribed  
 16 through administrative regulations promulgated by the commissioner~~executive~~  
 17 ~~director~~.

18 ➔Section 1132. KRS 304.13-163 is amended to read as follows:

19 In addition to other activities not prohibited, any statistical agent is authorized, on behalf  
 20 of its members and subscribers, to:

- 21 (1) Develop statistical plans including territorial and class definitions;
- 22 (2) Collect historical data from members, subscribers, or any other source;
- 23 (3) Distribute information that is required or directed to be filed with the  
 24 commissioner~~executive director~~;
- 25 (4) Collect, compile, and distribute past and current prices of individual insurers and  
 26 publish such information;
- 27 (5) Collect and compile exposure and loss experience for the purpose of individual risk

1 experience ratings; and

- 2 (6) Furnish any other services, as approved or directed by the commissioner~~[executive~~  
3 ~~director]~~, related to those enumerated in this section.

4 ➔Section 1133. KRS 304.13-165 is amended to read as follows:

- 5 (1) Every advisory organization shall file with the commissioner~~[executive-director]~~  
6 every statistical plan, all prospective loss costs, provisions for special assessments,  
7 and all supplementary rating information, and every change or amendment or  
8 modification of any of the foregoing proposed for use in Kentucky. Each filing shall  
9 be filed thirty (30) days before it becomes effective, which period may be extended  
10 by the commissioner~~[executive-director]~~ for an additional period not to exceed  
11 thirty (30) days, if written notice is given within the initial thirty (30) day period to  
12 the advisory organization that additional time is needed for the consideration of the  
13 filing. The commissioner~~[executive-director]~~ may, upon giving written notice to the  
14 advisory organization, request additional information that is needed to complete the  
15 review of the filing. If the commissioner~~[executive-director]~~ requests such  
16 additional information prior to the filing becoming effective, the filing shall become  
17 effective thirty (30) days after the additional information is provided to the  
18 commissioner~~[executive-director]~~.

- 19 (2) Upon written application by the advisory organization, the commissioner~~[executive~~  
20 ~~director]~~ may authorize an earlier effective date.

- 21 (3) All filings shall be subject to the provisions of KRS 304.13-081 and all other  
22 provisions of this chapter relating to filings made by insurers.

23 ➔Section 1134. KRS 304.13-167 is amended to read as follows:

- 24 (1) Every workers' compensation insurer shall adhere to a uniform classification system  
25 and uniform experience rating system filed with the commissioner~~[executive~~  
26 ~~director]~~ by an advisory organization designated by the commissioner~~[executive~~  
27 ~~director]~~.

- 1 (2) Every workers' compensation insurer shall report its experience in accordance with  
2 the statistical plans and other reporting requirements in use by an advisory  
3 organization designated by the commissioner~~[executive director]~~.
- 4 (3) A workers' compensation insurer may develop subclassifications of the uniform  
5 classification system upon which rates may be made. These subclassifications and  
6 their filing shall be subject to the provisions of this chapter applicable to filings  
7 generally.
- 8 (4) A workers' compensation insurer may develop rating plans which identify loss  
9 experience as a factor to be used. These rating plans and their filing shall be subject  
10 to the provisions of this chapter applicable to filings generally.
- 11 (5) The commissioner~~[executive director]~~ shall disapprove subclassifications, rating  
12 plans, or other variations from manual rules filed by a workers' compensation  
13 insurer if the insurer fails to demonstrate that the data thereby produced can be  
14 reported consistent with the uniform classification system and experience rating  
15 system and in such a fashion so as to allow for the application of experience rating  
16 filed by the advisory organization.
- 17 (6) The commissioner~~[executive director]~~ shall approve rating plans for workers'  
18 compensation insurance that give specific identifiable consideration in the setting of  
19 rates to employers who implement a drug-free workplace program pursuant to  
20 administrative regulations adopted by the Department~~[Office]~~ of Workers' Claims  
21 in the ~~[Department of]~~ Labor Cabinet. The plans shall take effect January 1, 2008,  
22 shall be actuarially sound, and shall state the savings anticipated to result from such  
23 drug-free workplace programs. The credit shall be at least five percent (5%) unless  
24 the commissioner~~[executive director]~~ determines that five percent (5%) is  
25 actuarially unsound. The commissioner~~[executive director]~~ is also authorized to  
26 develop a schedule of premium credits for workers' compensation insurance for  
27 employers who have safety programs that contain certain criteria for safety

1 programs. The commissioner~~[executive director]~~ shall consult with the  
 2 commissioner~~[executive director]~~ of the Department~~[Office]~~ of Workers' Claims in  
 3 the ~~[Department of]~~ Labor Cabinet in setting such criteria. A drug-free workplace  
 4 credit under this subsection shall not be available to employers who receive a credit  
 5 under KRS 304.13-412 or KRS Chapter 351.

6 ➔Section 1135. KRS 304.13-169 is amended to read as follows:

7 No person shall willfully withhold information which will affect the rates or premiums  
 8 chargeable under this subtitle from, or knowingly give false or misleading information to,  
 9 the commissioner~~[executive director]~~, any statistical agent, any advisory organization, or  
 10 any insurer.

11 ➔Section 1136. KRS 304.13-171 is amended to read as follows:

12 (1) Any policy fee as related to underwriting expenses for a property or casualty  
 13 insurance contract, issued or renewed on or after July 14, 2000, by an agent licensed  
 14 under KRS 304.9-085, shall be deemed fully earned. The fee shall only be collected  
 15 if coverage is provided.

16 (2) All fees referred to in subsection (1) of this section shall be submitted to the  
 17 commissioner~~[executive director]~~ for prior approval.

18 ➔Section 1137. KRS 304.13-320 is amended to read as follows:

19 (1) The commissioner~~[executive director]~~ may suspend the license of any advisory  
 20 organization or insurer which fails to comply with an order of the  
 21 commissioner~~[executive director]~~ within the time limited by the order, or any  
 22 extension thereof which the commissioner~~[executive director]~~ may grant. The  
 23 commissioner~~[executive director]~~ shall not suspend the license of any advisory  
 24 organization or insurer for failure to comply with an order until the time prescribed  
 25 for an appeal therefrom has expired or if an appeal has been taken, until the order  
 26 has been affirmed. The commissioner~~[executive director]~~ may modify or rescind a  
 27 suspension at any time.



1 (2) No penalty shall be imposed and no license shall be suspended or revoked except  
 2 upon a final order of the commissioner~~executive director~~, stating his or her  
 3 findings made after a hearing conducted in accordance with KRS Chapter 13B.

4 ➔Section 1138. KRS 304.13-340 is amended to read as follows:

5 The Workers' Compensation Insurance Plan (KWCIP), a workers' compensation residual  
 6 market mechanism, in existence by virtue of this subtitle, shall not write new policies or  
 7 renew policies after September 1, 1995. The board of directors of the Employers' Mutual  
 8 Insurance Authority, the commissioner~~executive director~~ of the Department~~Office~~ of  
 9 Workers' Claims, and the commissioner~~executive director~~ of the Department~~Office~~ of  
 10 Insurance shall develop a plan, which shall be reviewed by the Labor and Industry  
 11 Committee and the Banking and Insurance Committee of the General Assembly, for the  
 12 orderly and equitable phase-out of the KWCIP. All claims on workers' compensation  
 13 assigned risk policies in effect or issued prior to September 1, 1995, shall be paid by the  
 14 KWCIP. The plan developed shall include procedures for application and transfer of the  
 15 insureds in the KWCIP to the authority, who shall be subject to the qualifications and  
 16 conditions of coverage required in KRS 342.801 to 342.843 and this section. The  
 17 authority shall not be liable for any liabilities or deficits incurred on assigned risk policies  
 18 in effect or issued prior to September 1, 1995.

19 ➔Section 1139. KRS 304.13-350 is amended to read as follows:

20 The commissioner~~executive director~~ shall review, approve, and hear appeals on the  
 21 assignment, reassignment, or modification of any fire protection classification of any fire  
 22 protection district, municipality, or locality in the state which is made by any lawful  
 23 insurer, advisory organization, or agency operating in the Commonwealth.

24 ➔Section 1140. KRS 304.13-355 is amended to read as follows:

25 Any fire protection district, municipality, or locality in the state which is assigned a fire  
 26 protection classification by any lawful advisory organization or insurer which makes its  
 27 own rates, operating in the Commonwealth, may appeal to the commissioner~~executive~~

1 ~~director~~] for modification or reassignment of the classification within thirty (30) days of  
 2 receipt of the classification. The commissioner~~[executive director]~~ shall determine the  
 3 manner in which an appeal may be filed.

4 ➔Section 1141. KRS 304.13-360 is amended to read as follows:

5 (1) The commissioner~~[executive director]~~ shall make such investigation as he or she  
 6 deems necessary or convenient for proper determination regarding an appeal.

7 (2) The books, accounts, papers and records of every fire protection classification  
 8 advisory organization or insurer which makes its own rates, operating in the  
 9 Commonwealth, shall be available to the commissioner~~[executive director]~~ for  
 10 inspection and examination. By notice and order, the commissioner~~[executive~~  
 11 ~~director]~~ may require their production or the production of verified copies at such  
 12 time and place as he or she designates, any expense incurred to be borne by the  
 13 rating organization or insurer so ordered.

14 ➔Section 1142. KRS 304.13-365 is amended to read as follows:

15 (1) Within thirty (30) days of the filing of an appeal, the commissioner~~[executive~~  
 16 ~~director]~~ shall hold an administrative hearing to be conducted in accordance with  
 17 KRS 304.2-310. Whenever the commissioner~~[executive director]~~ determines that a  
 18 fire protection classification is unreasonable, he or she shall by final order prescribe  
 19 a reasonable classification to be followed for a period not to exceed one (1) year. A  
 20 subsequent evaluation by the advisory organization or insurer shall not be permitted  
 21 until the expiration of the period set by the commissioner~~[executive director]~~.

22 (2) The commissioner~~[executive director]~~ may compel obedience to its final orders by  
 23 proper proceedings in the Franklin Circuit Court or any other court of competent  
 24 jurisdiction, and these proceedings shall have priority over all pending cases.

25 ➔Section 1143. KRS 304.13-370 is amended to read as follows:

26 (1) No insurer may increase premiums for fire insurance based on a fire protection  
 27 classification until the expiration of the thirty (30) day period for appeal by the fire

1 protection district, municipality or locality, as provided in KRS 304.13-355. If an  
 2 appeal is filed, no insurer may increase such premiums until approval of the fire  
 3 protection classification by the commissioner~~executive director~~.

4 (2) If the commissioner's~~executive director's~~ reassignment or modification of a fire  
 5 protection classification results in lower fire insurance premiums, the appropriate  
 6 insurers shall make any refunds of paid premiums due to customers within the  
 7 affected fire protection district, municipality or locality. Such refunds shall be  
 8 determined from the date the advisory organization or insurer last assigned or  
 9 reassigned the classification appealed.

10 ➔Section 1144. KRS 304.13-380 is amended to read as follows:

11 (1) Each fire department operating within the Commonwealth, whether paid or  
 12 volunteer, shall complete a report each time it responds to a fire call. The report  
 13 shall be made on a form, similar to the National Fire Protection Association's  
 14 standard fire reporting form, to be distributed by the Commission on Fire Protection  
 15 Personnel Standards and Education and shall include but not be limited to the  
 16 following information:

- 17 (a) Date of the fire call;
- 18 (b) Time of day of the fire response;
- 19 (c) Number of pieces of fire equipment responding to each call;
- 20 (d) Number of firefighters responding to each call;
- 21 (e) Description of the estimated fire damages; and
- 22 (f) Cause of the fire, if known, or the suspected cause of the fire.

23 (2) Each fire department operating within the Commonwealth, whether paid or  
 24 volunteer, shall file a monthly summary of the reports required to be completed in  
 25 subsection (1) of this section with the commission's office. The commission shall  
 26 transmit a copy of each fire department's monthly summary to the  
 27 commissioner~~executive director~~. Monthly summaries shall be made on a form, similar

1 to the National Fire Protection Association's fire reporting action summary form, to be  
2 distributed by the commission.

3 ➔Section 1145. KRS 304.13-390 is amended to read as follows:

4 If the state fire marshal gives notice to the Department~~[Office]~~ of Insurance that any  
5 authorized insurer has failed to comply with the provisions of KRS 227.250, the  
6 commissioner~~[executive-director]~~ may take appropriate action up to and including  
7 revoking or suspending the insurer's certificate of authority.

8 ➔Section 1146. KRS 304.13-410 is amended to read as follows:

9 (1) An employer policyholder who selects a deductible workers' compensation policy  
10 shall be granted a premium reduction by the insurer. The premium reduction shall  
11 be calculated by the insurer in accordance with administrative regulations  
12 promulgated by the commissioner~~[executive-director]~~ and shall be fully disclosed to  
13 the employer policyholder in writing.

14 (2) For ratemaking purposes, the premium reduction granted to an employer  
15 policyholder in accordance with the provisions of subsection (1) of this section shall  
16 be applied and considered prior to the application of experience modification  
17 adjustments, premium surcharges, or premium discounts.

18 (3) In addition to the provisions contained in subsection (2) of this section, only the net  
19 experience of an employer policyholder, which results after application of the  
20 deductible amount, rather than the gross experience of the employer policyholder,  
21 shall be used by the insurer or advisory organization in the calculation and  
22 preparation of workers' compensation rates. Violation of the provisions of this  
23 subsection shall constitute grounds for the suspension or revocation of the license of  
24 an insurer or advisory organization in the manner prescribed in KRS Chapter  
25 304.13-320.

26 ➔Section 1147. KRS 304.13-412 is amended to read as follows:

27 (1) Any employer who is also a licensee of a coal mine that has implemented a drug-

1 free workplace program, including an employee assistance program, certified by the  
 2 Office of Mine Safety and Licensing shall be eligible to obtain a credit on the  
 3 licensee's premium for workers' compensation insurance.

4 (2) Each insurer authorized to write workers' compensation insurance policies shall  
 5 provide the credit on the workers' compensation premium to any employer who is  
 6 also a licensee of a coal mine for which the insurer has written a workers'  
 7 compensation policy. The credit on the workers' compensation premium shall not:

8 (a) Be available to those employers that are also licensees who do not maintain  
 9 their drug-free workplace program for the entire workers' compensation policy  
 10 period; or

11 (b) Apply to minimum premium policies.

12 (3) The Department~~[Office]~~ of Insurance shall approve workers' compensation rating  
 13 plans that give a credit on the premium for a certified drug-free workplace so long  
 14 as the credit is actuarially sound. The credit shall be at least five percent (5%)  
 15 unless the Department~~[Office]~~ of Insurance determines that five percent (5%) is  
 16 actuarially unsound.

17 (4) The credit on the workers' compensation premium may be applied by the insurer at  
 18 the final audit.

19 ➔Section 1148. KRS 304.13-415 is amended to read as follows:

20 (1) Every employer that is assigned an experience modification factor for workers'  
 21 compensation in order to determine its workers' compensation premium shall be  
 22 furnished without charge a complete copy of the data and calculations of the  
 23 experience modification by the insurance company or any entity to which the  
 24 insurance company may delegate the duty of calculating and promulgating the  
 25 experience modification or, if applicable, by any self-insurance group of which the  
 26 employer is a member.

27 (2) Experience modification shall be based upon all payrolls and claims experience for

the applicable period regardless of whether the employer was insured by an insurance company, was a member of a self-insurance group, or was a member of the Kentucky Workers' Compensation Assigned Risk Plan for part or all of the period.

(3) For each workers' compensation insurance policy issued or renewed on or after May 1, 1997, the workers' compensation insurer or the licensed advisory organization shall provide, in accordance with subsection (1) of this section, the policyholder with a written explanation of the policyholder's experience modification factor and the data and methodology utilized in the calculation of the factor.

(4) The commissioner~~executive director~~ shall promulgate administrative regulations to establish the guidelines for application of the experience modification factors.

➔Section 1149. KRS 304.13-420 is amended to read as follows:

No insurer shall be required to offer a deductible to an employer policyholder, as provided in KRS 304.13-400, if the insurer determines, subject to review by the commissioner~~executive director~~, that the prospective employer policyholder is not financially able to comply with the terms and conditions of a deductible workers' compensation policy.

➔Section 1150. KRS 304.14-120 is amended to read as follows:

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner~~executive director~~. This provision shall not apply to any rates filed under Subtitle 17A of this chapter, surety bonds, or to specially rated inland marine risks, or to policies, riders, indorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner or distribution of benefits or to the reservation of rights and

benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the commissioner~~executive director~~.

(a) As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages (other than accident and health) the filing required by this subsection may be made by advisory organizations or form providers on behalf of their members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(b) Every advisory organization and form provider shall file with the commissioner~~executive director~~ for approval every property and casualty policy form and endorsement before distribution to members, subscribers, customers, or others.

(c) Every property and casualty insurer shall file with the commissioner~~executive director~~ notice of adoption before use of any approved form filed by an advisory organization or form provider or filed by the insurer pursuant to paragraph (a) of this subsection.

(2) Every such filing shall be made not less than sixty (60) days in advance of any such delivery. At the expiration of such sixty (60) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner~~executive director~~. Approval of any such form by the commissioner~~executive director~~ shall constitute a waiver of any unexpired portion of such waiting period. The commissioner~~executive director~~ may extend by not

more than a thirty (30) day period within which he or she may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner~~[executive director]~~ may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the commissioner~~[executive director]~~ disapproving any such form or any notice of the commissioner~~[executive director]~~ withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner~~[executive director]~~ shall in such notice prescribe.

(4) The commissioner~~[executive director]~~ may, by order, exempt from the requirements of this section for so long as he or she deems proper any insurance document or form or type thereof as specified in such order to which, in his or her opinion, this section may not practicably be applied, or the filing and approval of which are, in his or her opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the commissioner~~[executive director]~~ disapproving any such form or withdrawing a previous approval shall be taken as provided in Subtitle 2 of this chapter.

(6) For the purposes of this section, unless the context requires otherwise:

- (a) "Advisory organization" has the meaning provided in KRS 304.13-011; and
- (b) "Form provider" has the meaning provided in KRS 304.13-011.

➔Section 1151. KRS 304.14-130 is amended to read as follows:



1 (1) The commissioner~~[executive director]~~ shall disapprove any form filed under KRS  
 2 304.14-120, or withdraw any previous approval thereof, only on one (1) or more of  
 3 the following grounds:

4 (a) If it is in any respect in violation of, or does not comply with, this code.

5 (b) If it contains or incorporates by reference, where the incorporation is  
 6 otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or  
 7 exceptions and conditions which deceptively affect the risk purported to be  
 8 assumed in the general coverage of the contract.

9 (c) If it has any title, heading, or other indication of its provisions which is  
 10 misleading, or is printed in a size of type or manner of reproduction so as to  
 11 be substantially illegible.

12 (d) As to an individual, group, or blanket health insurance policy, if the benefits  
 13 provided therein are unreasonable in relation to the premium charged.

14 (e) If it excludes coverage for human immunodeficiency virus infection or  
 15 acquired immunodeficiency syndrome or contains limitations in the benefits  
 16 payable, or in the terms or conditions of the contract, for human  
 17 immunodeficiency virus infection or acquired immunodeficiency syndrome  
 18 which are different than those which apply to any other sickness or medical  
 19 condition.

20 (2) The insurer shall not use in this state any form after disapproval or withdrawal of  
 21 approval.

22 ➔Section 1152. KRS 304.14-135 is amended to read as follows:

23 (1) The commissioner~~[executive director]~~ shall prescribe the following uniform health  
 24 insurance claim forms which shall be used by all insurers transacting health  
 25 insurance in this state and by all state agencies that require health insurance claim  
 26 forms for their records as the sole instrument for reimbursement:

27 (a) The uniform health insurance claim form for an institutional provider shall

1 consist of the UB-92 data set or its successor submitted on the designated  
 2 paper or electronic format as adopted by the National Uniform Billing  
 3 Committee;

4 (b) The uniform health insurance claim form for a dentist shall consist of a data  
 5 set and form approved by the American Dental Association;

6 (c) The uniform health insurance claim form for all other health care providers  
 7 shall consist of the HCFA 1500 data set or its successor submitted on the  
 8 designated paper or electronic format as adopted by the National Uniform  
 9 Claims Committee; and

10 (d) A clean claim for pharmacists shall consist of a universal claim form or data  
 11 set approved by the National Council on Prescription Drug Program.

12 (2) An insurer shall not require a provider to:

13 (a) Use a claim form that is different than the uniform claim form for the provider  
 14 type as set out in subsection (1) of this section;

15 (b) Modify the uniform claims form or its content; or

16 (c) Submit additional claims forms.

17 ➔Section 1153. KRS 304.14-140 is amended to read as follows:

18 (1) Insurance contracts shall contain such standard or uniform provisions as are  
 19 required by the applicable provisions of this code pertaining to contracts of  
 20 particular kinds of insurance. The commissioner~~[executive director]~~ may waive the  
 21 required use of a particular provision in a particular insurance policy form if:

22 (a) The commissioner~~[He]~~ finds such provision unnecessary for or unrelated to  
 23 the protection of the insured and inconsistent with the purposes of the policy,  
 24 and

25 (b) The policy is otherwise approved by the commissioner~~[him]~~.

26 (2) No policy shall contain any provision inconsistent with or contradictory to any  
 27 standard or uniform provision used or required to be used, but the

1 commissioner~~[executive director]~~ may approve any substitute provision which is, in  
 2 his or her opinion, not less favorable in any particular to the insured or beneficiary  
 3 than the provisions otherwise required.

4 (3) In lieu of the provisions required by this code for contracts for particular kinds of  
 5 insurance, substantially similar provisions required by the law of the domicile of a  
 6 foreign or alien insurer may be used when approved by the commissioner~~[executive~~  
 7 ~~director]~~.

8 (4) A policy issued by a domestic insurer for delivery in another jurisdiction may  
 9 contain any provision required or permitted by the laws of such jurisdiction.

10 ➔Section 1154. KRS 304.14-220 is amended to read as follows:

11 (1) Binders or other contracts for temporary insurance may be made orally or in writing,  
 12 and shall be deemed to include all the usual terms of the policy as to which the  
 13 binder was given together with such applicable endorsements as are designated in  
 14 the binder, except as superseded by the clear and express terms of the binder.

15 (2) No binder shall be valid beyond the issuance of the policy with respect to which it  
 16 was given, or beyond ninety (90) days from its effective date, whichever period is  
 17 the shorter.

18 (3) If the policy has not been issued a binder may be extended or renewed beyond such  
 19 ninety (90) days with the written approval of the commissioner~~[executive director]~~,  
 20 or in accordance with such rules and regulations relative thereto as the  
 21 commissioner~~[executive director]~~ may promulgate.

22 (4) This section shall not apply to life or health insurance or title insurance.

23 ➔Section 1155. KRS 304.14-420 is amended to read as follows:

24 (1) No insurance policy for homeowners, dwelling fire, automobile, accident and  
 25 health, life or other forms of personal insurance shall be delivered, issued for  
 26 delivery, amended or renewed in this state after the effective date set out in  
 27 subsection (2) of this section unless the policy is in compliance with the provisions

1 of this section and KRS 304.14-430 to 304.14-450.

- 2 (2) The commissioner~~[executive director]~~ shall, within one (1) year from July 15,  
 3 1988, promulgate administrative regulations in accordance with the provisions of  
 4 KRS Chapter 13A to carry out the provisions of this section and KRS 304.14-430 to  
 5 304.14-450 and to establish minimum standards for the readability and  
 6 intelligibility of insurance contracts. Within one (1) year of the effective date of the  
 7 administrative regulations all insurers licensed to transact business shall comply  
 8 with the standards set out by this section and KRS 304.14-430 to 304.14-450 and  
 9 promulgated by the commissioner~~[executive director]~~.

10 ➔Section 1156. KRS 304.14-430 is amended to read as follows:

- 11 (1) All insurance policies subject to the provisions of KRS 304.14-420 to 304.14-450  
 12 shall contain as the first page or first page of text, if it is preceded by a title page or  
 13 pages, a cover sheet or sheets as provided in this section. The cover sheet or sheets  
 14 shall be printed in legible type and readable language and shall contain at least the  
 15 following:

16 (a) A brief statement that the policy is a legal contract between the policy owner  
 17 and the company;

18 (b) The statement "READ YOUR POLICY CAREFULLY. This cover sheet  
 19 provides only a brief outline of some of the important features of your policy.  
 20 This cover sheet is not the insurance contract and only the actual policy  
 21 provisions will control. The policy itself sets forth, in detail, the rights and  
 22 obligations of both you and your insurance company. IT IS THEREFORE  
 23 IMPORTANT THAT YOU READ YOUR POLICY." and

24 (c) An index of the major provisions of the policy or contract and the pages on  
 25 which they are found which may include the following items:

- 26 1. The person or persons insured by the policy;
- 27 2. The applicable events, occurrences, conditions, losses, or damages

- 1 covered by the policy;
- 2 3. The limitations or conditions on the coverage of the policy;
- 3 4. Definitional sections of the policy;
- 4 5. Provision governing the procedure for filing a claim under the policy;
- 5 6. Provisions governing cancellation, renewal, or amendment of the policy
- 6 by either the insurer or the policyowner;
- 7 7. Any options under the policy; and
- 8 8. Provisions governing the insurer's duties and powers in the event that
- 9 suit is filed against the insured.

10 (2) The cover sheet may include, either as part of the index or as a separate section, a  
 11 brief summary of the extent and types of coverage in the policy.

12 (3) No cover sheet shall be used unless it has been filed with and approved by the  
 13 commissioner~~executive director~~. The cover sheet shall be deemed approved sixty  
 14 (60) days after filing unless disapproved by the commissioner~~executive director~~  
 15 within the sixty (60) day period, subject to a reasonable extension of times as the  
 16 commissioner~~executive director~~ may require by notice given within the sixty (60)  
 17 day period. The commissioner~~executive director~~ shall disapprove any cover sheet  
 18 which does not meet the requirements of this section. Any disapproval shall be  
 19 delivered to the insurer in writing, stating the grounds therefor.

20 ➔Section 1157. KRS 304.14-435 is amended to read as follows:

- 21 (1) All policy forms filed with the department~~office~~, and any other insurance policy
- 22 or claim-related information, shall be written in the English language.
- 23 (2) Applications required to be filed with the department~~office~~ may also be filed in a
- 24 language other than English. The non-English version of the application shall:
- 25 (a) Be filed with the department~~office~~;
- 26 (b) Be accompanied by a certification written in English that the non-English
- 27 version is a complete and accurate translation of the English form filed;

- 1 (c) Be in the same format as the English version; and
- 2 (d) Contain all items in English immediately followed in parenthesis with the
- 3 non-English translation.

4 (3) This section shall not prohibit an insurer from advertising or providing information  
5 related to the policy or claims with translations to consumers in a language other  
6 than English.

7 (4) If there is a dispute between the English version and the non-English version, the  
8 English version shall control and the non-English version shall carry a disclaimer in  
9 the non-English language to this effect. The insurance policy is controlling and any  
10 advertisements or informational materials used by an insurer shall not be construed  
11 to modify or change the insurance policy.

12 ➔Section 1158. KRS 304.14-440 is amended to read as follows:

13 (1) All insurance policies subject to the provisions of KRS 304.14-420 to 304.14-450  
14 shall be written in language easily readable and understandable by a person of  
15 average intelligence and education.

16 (2) In determining whether a policy or contract is readable within the meaning of this  
17 section the commissioner~~[executive-director]~~ shall consider, at least, the following  
18 factors:

19 (a) The simplicity of the sentence structure and the shortness of the sentences  
20 used;

21 (b) The extent to which commonly used and understood words are employed;

22 (c) The extent to which legal terms are avoided;

23 (d) The extent to which references to other sections or provisions of the contract  
24 are minimized;

25 (e) The extent to which definitional provisions are incorporated in the text of the  
26 policy or contract; and

27 (f) Any additional factors relevant to the readability or understandability of an

insurance policy or contract which the commissioner~~executive director~~ may prescribe by regulation.

→ Section 1159. KRS 304.14-450 is amended to read as follows:

(1) All insurance policies subject to the provisions of KRS 304.14-420 to 304.14-450 shall be printed in legible type and in a type face style approved by the commissioner~~executive director~~. The commissioner~~executive director~~ shall by regulation establish a list of type face styles approved as acceptable.

(2) In determining whether a policy is legible the commissioner~~executive director~~ shall consider, in addition to the requirements of subsection (1) of this section relating to type face size and style, the following factors:

- (a) Margin size;
- (b) Contrast and legibility of the color of the ink and paper;
- (c) The amount and use of space to separate sections of the policy;
- (d) The use of contrasting titles or headings for sections or similar aids; and
- (e) Any additional factors relevant to legibility which the commissioner~~executive director~~ may prescribe by regulation.

→ Section 1160. KRS 304.14-510 is amended to read as follows:

The commissioner~~executive director~~ may make reasonable rules and regulations establishing minimum standards for Medicare supplement insurance policies delivered or issued for delivery in the state. Such regulations may cover but are not limited to:

- (1) Establishing specific standards for policy provisions;
- (2) Prohibiting policy provisions which in the opinion of the commissioner~~executive director~~ are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under a Medicare supplement policy;
- (3) Establishing minimum standards for benefits under Medicare supplement policies;
- (4) Prescribing the format and content of the outline of coverage required by KRS 304.14-540. For purposes of this section, "format" means style, arrangements, and

- 1 overall appearance, including such items as the size, color, and prominence of type  
 2 and the arrangement of text and captions. Such outline of coverage shall include:
- 3 (a) A description of the principal benefits and coverage provided in the policy;
  - 4 (b) A statement of the exceptions, reductions, and limitations contained in the  
 5 policy;
  - 6 (c) A statement of the renewal provisions, including any reservation by the  
 7 insurer of a right to change premiums;
  - 8 (d) A statement that the outline of coverage is a summary of the policy issued or  
 9 applied for and that the policy should be consulted to determine governing  
 10 contractual provisions.
- 11 (5) Prescribing a standard form and the contents of an informational brochure for  
 12 persons eligible for Medicare which is intended to improve the buyer's ability to  
 13 select the most appropriate coverage and improve the buyer's understanding of  
 14 Medicare. Except in the case of direct response insurance policies, the  
 15 commissioner~~executive director~~ may require by regulation that the information  
 16 brochure be provided to any prospective insureds eligible for Medicare concurrently  
 17 with delivery of the outline of coverage. With respect to direct response insurance  
 18 policies, the commissioner~~executive director~~ may require by regulation that the  
 19 prescribed brochure be provided upon request to any prospective insureds eligible  
 20 for Medicare, but in no event later than the time of policy delivery.
- 21 (6) Establishing reasonable captions and notice requirements, determined to be in the  
 22 public interest and designed to inform prospective insureds that particular insurance  
 23 coverages are not Medicare supplement coverages, for all accident and sickness  
 24 insurance policies sold to persons eligible for Medicare, other than:
- 25 (a) Medicare supplement policies; or
  - 26 (b) Disability income policies.
- 27 (7) Governing the full and fair disclosure of the information in connection with the



1 replacement of accident and sickness policies, subscriber contracts, or certificates  
 2 by persons eligible for Medicare.

3 ➔Section 1161. KRS 304.14-530 is amended to read as follows:

4 Medicare supplement policies shall be expected to return to policyholders benefits which  
 5 are reasonable in relation to the premium charged. The commissioner~~executive director~~  
 6 shall issue reasonable regulations to establish minimum standards for loss ratios of  
 7 Medicare supplement policies on the basis of incurred claims experience and earned  
 8 premiums for the entire period for which rates are computed to provide coverage and in  
 9 accordance with accepted actuarial principles and practices. For purposes of regulations  
 10 issued pursuant to this section, Medicare supplement policies issued as a result of  
 11 solicitations of individuals through the mail or mass media advertising, including both  
 12 print and broadcast advertising, shall be treated as individual policies.

13 ➔Section 1162. KRS 304.14-560 is amended to read as follows:

14 (1) The commissioner~~executive director~~ of insurance shall biennially compile a  
 15 consumer's guide to long-term care insurance in Kentucky. The consumer's guide  
 16 shall cover all insurers offering health insurance policies in Kentucky, including  
 17 health maintenance organizations, which provide coverage for services provided in  
 18 long-term care facilities as defined in KRS 216.510(1). The purpose of the  
 19 consumer's guide shall be to improve the buyer's ability to select the most  
 20 appropriate long-term care coverage and to improve the buyer's understanding of  
 21 long-term care. The consumer's guide shall contain, at a minimum, the following  
 22 information:

23 (a) Definitions of long-term care services provided in Kentucky, the cost of  
 24 services, sources of payment for long-term care, and eligibility for assistance  
 25 programs;

26 (b) Factors that affect premium rates, such as age, deductibles, duration of  
 27 benefits, and daily benefits paid;

- 1 (c) An explanation of the types of limitations contained in long-term care  
2 policies;
- 3 (d) A check list for the use of potential buyers of long-term care insurance which  
4 covers items that should be considered when selecting a long-term care  
5 insurance policy; and
- 6 (e) A comparison of the long-term care policies offered for sale in Kentucky. The  
7 comparison shall be updated at least annually, shall not recommend one policy  
8 over another, and shall provide the following information for policies:  
9 premiums at ages fifty-five (55), sixty-five (65), and seventy-five (75);  
10 services covered; length of coverage; limitations on coverage; prior  
11 institutionalization requirements; elimination period; and any other  
12 information the commissioner~~[executive director]~~ deems appropriate.
- 13 (2) The commissioner~~[executive director]~~ shall issue administrative regulations setting  
14 forth specific information to be provided by insurers writing long-term health care  
15 insurance in Kentucky to the department~~[office]~~ to complete the biennially  
16 compiled consumer's guide to long-term care insurance in Kentucky.
- 17 (3) The commissioner~~[executive director]~~ shall distribute, free of charge, a copy of the  
18 consumer's guide to long-term care insurance to any person upon request.
- 19 (4) The commissioner~~[executive director]~~ shall assess against insurers writing long-  
20 term health care insurance in Kentucky on an equitable basis the cost of compiling,  
21 printing, and distributing the consumer's guide to long-term care.
- 22 ➔Section 1163. KRS 304.14-600 is amended to read as follows:
- 23 As used in KRS 304.14-600 to 304.14-625, unless the context requires otherwise:
- 24 (1) "Incidental" indicates that the value of the long-term care benefits provided in a  
25 policy is less than ten percent (10%) of the total value of the benefits provided over  
26 the life of the policy. Policies may include life insurance, disability insurance, and  
27 annuities. These values shall be measured as of the date of issue.

1 (2) "Long-term care insurance" means any insurance policy or rider advertised,  
2 marketed, offered, or designed to provide coverage for not less than twelve (12)  
3 consecutive months for each covered person on an expense-incurred, indemnity,  
4 prepaid, or other basis for one (1) or more necessary or medically necessary  
5 diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care  
6 services, provided in a setting other than an acute care unit of a hospital unless the  
7 hospital or unit is licensed or certified to provide long-term services. This term  
8 includes group and individual annuities and life insurance policies or riders which  
9 provide directly or which supplement long-term care insurance. This term includes  
10 a policy or rider which provides for payment of benefits based upon cognitive  
11 impairment or the loss of functional capacity. This term also includes qualified  
12 long-term care insurance contracts as defined in 26 U.S.C. sec. 7702B(b). Long-  
13 term care insurance may be issued by insurers, fraternal benefit societies, nonprofit  
14 hospital, medical-surgical, dental, and health service corporations, health  
15 maintenance organizations, or any similar organization to the extent they are  
16 otherwise authorized to issue life or health insurance. Long-term care insurance  
17 shall not include any insurance policy which is offered primarily to provide basic  
18 Medicare supplement coverage, basic hospital expense coverage, basic medical-  
19 surgical expense coverage, hospital confinement indemnity coverage, major medical  
20 expense coverage, disability income or related asset-protection coverage, accident  
21 only coverage, specified disease or specified accident coverage, or limited benefit  
22 coverage. With regard to life insurance, this term does not include life insurance  
23 policies which accelerate the death benefit specifically for one (1) or more of the  
24 qualifying events of terminal illness, medical conditions requiring extraordinary  
25 medical intervention, or permanent institutional confinement, and which provide the  
26 option of a lump-sum payment for those benefits and in which neither the benefits  
27 nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

1 Any product advertised, marketed, or offered as long-term care insurance or nursing  
2 home insurance which otherwise meets the definition of long-term care insurance  
3 shall be subject to the provisions of KRS 304.14-600 to 304.14-625.

4 (3) "Applicant" means:

5 (a) In the case of an individual long-term care insurance policy, the person who  
6 seeks to contract for benefits; and

7 (b) In the case of a group long-term care insurance policy, the proposed certificate  
8 holder.

9 (4) "Certificate" means any certificate issued under a group long-term care insurance  
10 policy, which policy has been delivered or issued for delivery in Kentucky, except  
11 as provided in KRS 304.14-610.

12 (5) "Group long-term care insurance" means a long-term care insurance policy which is  
13 delivered or issued for delivery in Kentucky by an insurer, fraternal benefit society,  
14 nonprofit health service corporation, or health maintenance organization, and which  
15 is issued to:

16 (a) One (1) or more employers or labor organizations, or to a trust or to the  
17 trustees of a fund established by one (1) or more employers or labor  
18 organizations, or a combination thereof, for employees or former employees  
19 or a combination thereof, or for members or former members or a  
20 combination thereof, of the labor organizations;

21 (b) Any professional, trade, or occupational association for its members or former  
22 or retired members, or combination thereof, if the association:

- 23 1. Is composed of individuals all of whom are or were actively engaged in  
24 the same profession, trade, or occupation; and
- 25 2. Has been maintained in good faith for purposes other than obtaining  
26 insurance;

27 (c) An association or a trust or the trustee of a fund established, created, or

1 maintained for the benefit of members of one (1) or more associations. Prior  
 2 to advertising, marketing, or offering the policy within Kentucky, the insurer  
 3 of the association shall file with the commissioner~~[executive-director]~~  
 4 evidence that the association has at the outset a minimum of one hundred  
 5 (100) persons and has been organized and maintained in good faith for  
 6 purposes other than that of obtaining insurance, has been in active existence  
 7 for at least one (1) year, and has a constitution and bylaws which provide:

- 8 1. The association holds regular meetings not less than annually to further  
 9 the purposes of the members;
- 10 2. Except for credit unions, the association collects dues or solicits  
 11 contributions from members; and
- 12 3. The members have voting privileges and representation on the governing  
 13 board and committees.

14 The association shall be deemed to satisfy the organizational requirements  
 15 unless the commissioner~~[executive-director]~~ makes a finding that the  
 16 association does not satisfy those organizational requirements within the time  
 17 set forth in KRS 304.14-120; or

18 (d) A group other than that described in paragraphs (a), (b), and (c) of this  
 19 subsection, subject to a finding by the commissioner~~[executive-director]~~ that:

- 20 1. The issuance of the group policy is not contrary to the best interest of the  
 21 public;
- 22 2. The issuance of the group policy would result in economies of  
 23 acquisition or administration; and
- 24 3. The benefits are reasonable in relation to the premiums charged.

25 (6) "Policy" means any policy, contract, subscriber, agreement, enrollment agreement,  
 26 rider, or endorsement delivered or issued for delivery in Kentucky.

27 ➔Section 1164. KRS 304.14-610 is amended to read as follows:

Group long-term care insurance coverage shall not be offered to a resident of Kentucky under a group policy issued in another state to a group described in KRS 304.14-600(5)(d) unless the commissioner~~[executive director]~~ or the insurance supervisory official of another state having statutory and regulatory long-term care insurance requirements substantially similar to KRS 304.14-600 to 304.14-625, has made a determination that these requirements have been met. Certificates of group long-term care insurance shall be filed with the commissioner~~[executive director]~~ as required by KRS 304.14-120.

➔Section 1165. KRS 304.14-615 is amended to read as follows:

- (1) The commissioner~~[executive director]~~ shall promulgate administrative regulations that include standards for full and fair disclosure setting forth the manner, content, and require disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, pre-existing conditions, incidental benefits, lapse of insurance, termination of insurance, continuation of conversion, probationary periods, limitations, exceptions, reductions, elimination periods, premium rating practices and rating increases, requirements for replacement, recurrent conditions, and definitions of terms.
- (2) A long-term care insurance policy shall not:
  - (a) Be canceled, nonrenewed, or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder;
  - (b) Contain a provision establishing a new waiting period in the event existing coverage is covered to or replaced by a new or other form within the same insurer, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder; or
  - (c) Provide coverage for skilled nursing care only or provide significantly more

1 coverage for skilled care in a facility than coverage for lower levels of care.

2 (3) (a) A long-term care insurance policy or certificate, other than a policy or  
 3 certificate thereunder issued to a group defined in KRS 304.14-600(5)(a),  
 4 shall not use a definition of "pre-existing condition" which is more restrictive  
 5 than the following: "Pre-existing condition means a condition for which  
 6 medical services or treatment was recommended by, or received from, a  
 7 provider of health care services within six (6) months preceding the effective  
 8 date of coverage of an insured person."

9 (b) A long-term care insurance policy or certificate, other than a policy or  
 10 certificate under a policy issued to a group as defined in KRS 304.14-  
 11 600(5)(a), shall not exclude coverage for a loss or confinement which is the  
 12 result of a pre-existing condition unless that loss or confinement begins within  
 13 six (6) months following the effective date of coverage of an insured person.

14 (c) The commissioner~~executive director~~ may extend the limitation periods set  
 15 forth in subsection (3)(a) and (b) of this section as to specific age group  
 16 categories in specific policy forms upon finding that the extension is in the  
 17 best interest of the public.

18 (d) The definition of "pre-existing condition" does not prohibit an insurer from  
 19 using an application form designed to elicit the complete health history of an  
 20 applicant, and, on the basis of the answers on that application, from  
 21 underwriting in accordance with that insurer's established underwriting  
 22 standards. Unless otherwise provided in the policy or certificate, a pre-existing  
 23 condition, regardless of whether it is disclosed on the application, need not be  
 24 covered until the waiting period described in paragraph (b) of this subsection  
 25 expires. A long-term care insurance policy or certificate shall not exclude or  
 26 use waivers or riders of any kind to exclude, limit, or reduce coverage or  
 27 benefits for specifically named or described pre-existing diseases or physical

1 conditions beyond the waiting period described in paragraph (b) of this  
 2 subsection.

3 (4) (a) A long-term care insurance policy shall not be delivered or issued for delivery  
 4 in this Commonwealth if the policy:

- 5 1. Conditions eligibility for any benefits on a prior hospitalization  
 6 requirement;
- 7 2. Conditions eligibility for benefits provided in an institutional care  
 8 setting on the receipt of a higher level of institutional care; or
- 9 3. Conditions eligibility for any benefits other than waiver of premium,  
 10 post-confinement, post-acute care, or recuperative benefits on a prior  
 11 institutionalization requirement.

12 (b) 1. A long-term care insurance policy containing post-confinement, post-  
 13 acute care, or recuperative benefits shall clearly label in a separate  
 14 paragraph of the policy or certificate entitled "limitations or conditions  
 15 on eligibility for benefits" the limitations or conditions, including any  
 16 required number of days of confinement.

17 2. A long-term care insurance policy or rider which conditions eligibility of  
 18 noninstitutional benefits on the prior receipt of institutional care shall  
 19 not require a prior institutional stay of more than thirty (30) days.

20 (5) The commissioner~~executive director~~ may promulgate administrative regulations  
 21 establishing loss ratio standards for long-term care insurance policies if a specific  
 22 reference to long-term care insurance policies is contained in the administrative  
 23 regulations.

24 (6) Long-term care insurance applicants shall have the right to return the policy or  
 25 certificate within thirty (30) days of its delivery and to have the premium refunded  
 26 if, after examination of the policy or certificate, the applicant is not satisfied for any  
 27 reason. Long-term care insurance policies and certificates shall have a notice



1 prominently printed on the first page or attached thereto stating in substance that the  
 2 applicant shall have the right to return the policy or certificate within thirty (30)  
 3 days of its delivery and to have the premium refunded if, after examination of the  
 4 policy or certificate, other than a certificate issued pursuant to a policy issued to a  
 5 group defined in KRS 304.14-600(5)(a), the applicant is not satisfied for any reason.

6 (7) (a) An outline of coverage shall be delivered to a prospective applicant for long-  
 7 term care insurance at the time of initial solicitation through means which  
 8 prominently direct the attention of the recipient to the document and its  
 9 purpose.

10 1. The commissioner~~executive director~~ shall prescribe a standard format,  
 11 including style, arrangement, and overall appearance, and the content of  
 12 an outline of coverage.

13 2. In the case of agent solicitations, an agent shall deliver the outline of  
 14 coverage prior to the presentation of an application or enrollment form.

15 3. In the case of direct response solicitations, the outline of coverage shall  
 16 be presented in conjunction with any application or enrollment form.

17 (b) The outline of coverage shall include:

18 1. A description of the principal benefits and coverage provided in the  
 19 policy;

20 2. A statement of the principal exclusions, reductions, and limitations  
 21 contained in the policy;

22 3. A statement of the terms under which the policy or certificate, or both,  
 23 may be continued in force or discontinued, including any reservation in  
 24 the policy of a right to change premium. Continuation or conversion  
 25 provisions of group coverage shall be specifically described;

26 4. A statement that the outline of coverage is a summary only, not a  
 27 contract of insurance, and that the policy or group master policy contains

- 1 governing contractual provisions;
- 2 5. A description of the terms under which the policy or certificate may be
- 3 returned and premium refunded; and
- 4 6. A brief description of the relationship of the cost of care and benefits.
- 5 (8) A certificate issued pursuant to a group long-term care insurance policy which is
- 6 delivered or issued for delivery in this Commonwealth or a certificate subject to
- 7 approval by the commissioner~~[executive director]~~ shall include:
  - 8 (a) A description of the principal benefits and coverage provided in the policy;
  - 9 (b) A statement of the principal exclusions, reductions, and limitations contained
  - 10 in the policy; and
  - 11 (c) A statement that the group master policy determine governing contract
  - 12 provisions.
- 13 (9) At the time of policy delivery, a policy summary shall be delivered for an individual
- 14 life insurance policy which provides long-term care benefits within the policy or by
- 15 rider. In the case of direct response solicitations, the insurer shall deliver the policy
- 16 summary upon the applicant's request, but regardless of any request, the insurer
- 17 shall deliver the policy summary no later than at the time of policy delivery. In
- 18 addition to complying with all applicable requirements, the summary shall also
- 19 include:
  - 20 (a) An explanation of how the long-term care benefit interacts with other
  - 21 components of the policy, including deductions from death benefits;
  - 22 (b) An illustration of the amount of benefits, the length of benefit, and the
  - 23 guaranteed lifetime benefits, if any, for each covered person;
  - 24 (c) Any exclusions, reductions, and limitations on benefits of long-term care
  - 25 insurance; and
  - 26 (d) If applicable to the policy type, the summary shall also include:
    - 27 1. A disclosure of the effects of exercising other rights under the policy;

1           2. A disclosure of guarantees related to long-term care of insurance  
2           charges; and

3           3. Current and projected maximum lifetime benefits.

4   (10) When a long-term care benefit funded through a life insurance vehicle by the  
5       acceleration of the death benefit is in benefit payment status, a monthly report shall  
6       be provided to the policyholder by the insurer. The report shall include:

7       (a) Any long-term care benefits paid out during the month;

8       (b) An explanation of any changes in the policy, such as death benefits or cash  
9       values, due to long-term care benefits being paid out; and

10      (c) The amount of long-term care benefits existing or remaining.

11   (11) Any policy or rider advertised or marketed, or offered as long-term care or nursing  
12       home insurance shall comply with the provisions of KRS 304.14-600 to 304.14-  
13       625.

14       ➔Section 1166. KRS 304.14-617 is amended to read as follows:

15   (1) Any long-term care policy, issued on or after June 21, 2001, which provides  
16       coverage for assisted living benefits shall cover services received in any assisted  
17       living community which:

18       (a) Meets the requirements of KRS 194A.700 to 194A.729 and any administrative  
19       regulations promulgated under KRS 194A.700 to 194A.729; and

20       (b) Meets any additional requirements of an assisted living community set forth in  
21       the long-term care policy approved by the commissioner~~executive director~~.

22   (2) Any long-term care policy, issued on or after June 21, 2001, which provides  
23       coverage for adult day care services shall cover services received in any adult day  
24       care facility which:

25       (a) Meets the requirements of KRS 205.950 or 216B.0443 and any administrative  
26       regulations promulgated under KRS 205.950 or 216B.0443; and

27       (b) Meets any additional requirements of an adult day care center set forth in the

1 long-term care policy approved by the commissioner~~[executive director]~~.

2 ➔Section 1167. KRS 304.14-620 is amended to read as follows:

3 The commissioner~~[executive director]~~ shall issue administrative regulations to establish  
4 minimum standards for marketing practices, agent compensation, agent testing, penalties,  
5 and reporting practices for long-term care insurance.

6 ➔Section 1168. KRS 304.14-630 is amended to read as follows:

7 The commissioner~~[executive director]~~ shall issue administrative regulations to establish  
8 standards for premium rate practices and rate increases for long-term care benefits.

9 ➔Section 1169. KRS 304.14-635 is amended to read as follows:

10 The commissioner~~[executive director]~~ shall promulgate administrative regulations to  
11 establish standards for incidental long-term care benefits.

12 ➔Section 1170. KRS 304.14-642 is amended to read as follows:

13 (1) The Kentucky Long-Term Care Partnership Insurance Program is established as a  
14 partnership between the Department for Medicaid Services and the  
15 Department~~[Office]~~ of Insurance to:

- 16 (a) Provide incentives for an individual to insure against the cost of providing for  
17 his or her long-term care needs;
- 18 (b) Increase utilization of long-term care insurance policies;
- 19 (c) Assist in alleviating the financial burden of Kentucky's Medicaid program by  
20 encouraging the use of private insurance; and
- 21 (d) Provide a mechanism for individuals to qualify for Medicaid services for costs  
22 of long-term care without exhausting all of their assets and resources.

23 (2) A long-term care partnership insurance policy shall:

- 24 (a) Provide coverage for expenses for at least twelve (12) months for each  
25 covered person on an expense-incurred, indemnity, or prepaid basis for one  
26 (1) or more long-term care services provided in a setting other than an acute  
27 care unit of a hospital;

- 1 (b) Be qualified under Section 7702B(b) of the Internal Revenue Code of 1986;
- 2 (c) Provide coverage for long-term care services for a policyholder who is a  
3 resident of a state with a qualified long-term care partnership program when  
4 coverage first became effective; and
- 5 (d) Not be issued prior to the effective date of an approved amendment to the  
6 State Medicaid Plan.
- 7 (3) The Department~~{Office}~~ of Insurance shall have responsibility to approve, pursuant  
8 to KRS 304.14-120, any long-term care partnership insurance policy available in  
9 Kentucky that meets and continues to meet all applicable federal and state laws and  
10 regulations. The state shall not impose any requirement affecting the terms or  
11 benefits of such a policy unless the state imposes such requirement on long-term  
12 care insurance policies without regard to whether the policy is covered under the  
13 partnership or is offered in connection with the partnership.
- 14 (4) The Department~~{Office}~~ of Insurance shall ensure that any agent who sells a long-  
15 term care partnership insurance policy can demonstrate an understanding of long-  
16 term care partnership insurance and how it relates to other public and private  
17 coverage of long-term care expenses. The Department for Medicaid Services shall  
18 provide consultation, materials, and other information to the Department~~{Office}~~ of  
19 Insurance to enable the Department~~{Office}~~ of Insurance to facilitate the  
20 development and issuance of uniform training materials for agents who sell long-  
21 term care insurance policies. The Department~~{Office}~~ of Insurance may contract  
22 with another entity to conduct agent training and testing. Training and certification  
23 may be conducted at the expense of the insurance agent.
- 24 (5) Within sixty (60) days of notice of approval of the amendment to the State  
25 Medicaid Plan required under KRS 205.619, the Department~~{Office}~~ of Insurance  
26 shall promulgate an administrative regulation pursuant to KRS Chapter 13A to  
27 implement the Kentucky Long-Term Care Partnership Insurance Program.

1 (6) The Department~~[Office]~~ of Insurance and the Department for Medicaid Services  
 2 shall report no later than September 30 each year to the Interim Joint Committee on  
 3 Banking and Insurance and the Interim Joint Committee on Health and Welfare on  
 4 the number of partnership insurance policies sold in Kentucky, utilization of the  
 5 partnership insurance policies, and expenditures and cost savings associated with  
 6 implementation, utilization, and maintenance of the partnership program. If national  
 7 data reporting standards become available, the report submitted to the federal  
 8 agency shall meet the requirements of this subsection.

9 ➔Section 1171. KRS 304.14-644 is amended to read as follows:

10 (1) Each insurer or its agent, soliciting or offering to sell a policy that is intended to  
 11 qualify as a partnership policy, shall provide each prospective applicant a  
 12 Partnership Program Notice disclosing the availability of the Kentucky Long-Term  
 13 Care Partnership Insurance Program as authorized in Section 6021 of the Deficit  
 14 Reduction Act of 2005 and outlining the requirements and benefits of a partnership  
 15 policy.

16 (2) The manner and content of the disclosure described in subsection (1) of this section  
 17 shall be established through promulgation of administrative regulations by the  
 18 Department~~[Office]~~ of Insurance in coordination with the Cabinet for Health and  
 19 Family Services.

20 ➔Section 1172. KRS 304.14-660 is amended to read as follows:

21 The commissioner~~[executive director]~~ shall promulgate administrative regulations that  
 22 include standards for full and fair disclosure setting forth the manner, content, and  
 23 required disclosures for sale of short-term nursing home insurance policies, terms of  
 24 renewability, initial and subsequent conditions or eligibility, nonduplication of coverage  
 25 provisions, coverage of dependents, pre-existing conditions, termination of insurance,  
 26 continuation of conversion, probationary periods, limitations, exceptions, reductions,  
 27 elimination periods, requirements for replacement, recurrent conditions, and definitions.

➔Section 1173. KRS 304.14-665 is amended to read as follows:

The commissioner~~[executive director]~~ may promulgate administrative regulations establishing loss ratio standards for short-term nursing home insurance policies.

➔Section 1174. KRS 304.14-675 is amended to read as follows:

(1) Any short-term nursing home insurance policy issued on or after July 15, 2002, which provides coverage for assisted living benefits shall cover services received in any assisted living community which:

(a) Meets the requirements of KRS 194A.700 to 194A.729 and any administrative regulations promulgated under KRS 194A.700 to 194A.729; and

(b) Meets any additional requirements of an assisted living community set forth in the short-term nursing home insurance policy approved by the commissioner~~[executive director]~~.

(2) Any short-term nursing home insurance policy issued on or after July 15, 2002, which provides coverage for adult day care services shall cover services received in any adult day care facility which:

(a) Meets the requirements of KRS 205.950 or 216B.0443 and any administrative regulations promulgated under KRS 205.950 or 216B.0443; and

(b) Meets any additional requirements of an adult day care center set forth in the short-term nursing home insurance policy approved by the commissioner~~[executive director]~~.

➔Section 1175. KRS 304.15-020 is amended to read as follows:

(1) "Advertisement" means any written, electronic, or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the Internet, or similar communication media, including film strips, motion pictures, and videos, published, disseminated, circulated, or placed directly before the public, for the purpose of creating an interest in or inducing a person to purchase or sell, assign, devise, bequest, or transfer the death benefit or ownership

1 of a life insurance policy or an interest in a life insurance policy pursuant to a life  
2 settlement contract.

3 (2) "Business of life settlements" means an activity involved in but not limited to the  
4 offering, solicitation, negotiation, procurement, effectuation, purchasing, investing,  
5 financing, monitoring, tracking, underwriting, selling, transferring, assigning,  
6 pledging, hypothecating, or in any other manner, of life settlement contracts.

7 (3) "Chronically ill" means:

8 (a) Being unable to perform at least two (2) activities of daily living, including  
9 but not limited to eating, toileting, transferring, bathing, dressing, or  
10 continence;

11 (b) Requiring substantial supervision to protect the individual from threats to  
12 health and safety due to severe cognitive impairment; or

13 (c) Having a level of disability similar to that described in paragraph (a) of this  
14 subsection as determined by the Secretary of Health and Human Services.

15 (4) "College life insurance" is that form of life insurance sold to college students, the  
16 initial premiums for which are financed by a promissory note.

17 (5) "Financing entity" means an underwriter, placement agent, lender, purchaser of  
18 securities, purchaser of a policy from a life settlement provider, credit enhancer, or  
19 any entity that has a direct ownership in a policy that is the subject of a life  
20 settlement contract but:

21 (a) Whose principal activity related to the transaction is providing funds to effect  
22 the life settlement contract or purchase of one (1) or more policies or to  
23 provide credit enhancement; and

24 (b) Who has an agreement in writing with one (1) or more licensed life settlement  
25 providers to finance the acquisition of life settlement contracts or to provide  
26 stop loss insurance.

27 "Financing entity" does not include a nonaccredited investor or purchaser.



1 (6) "Financing transaction" means a transaction in which a life settlement provider  
2 obtains financing from a financing entity, including without limitation any secured  
3 or unsecured financing, any securitization transaction, or any securities offering  
4 which either is registered or exempt from registration under federal and state  
5 securities law.

6 (7) "Fraudulent life settlement act" includes:

7 (a) Acts or omissions committed by any person who, knowingly or with intent to  
8 defraud, for the purpose of depriving another of property or for pecuniary  
9 gain, commits or permits his employees or its agents to engage in acts  
10 including:

11 1. Presenting, causing to be presented, or preparing with knowledge or  
12 belief that it will be presented to or by a life settlement provider, life  
13 settlement broker, life insurance producer, financing entity, insurer,  
14 premium finance lender, or any other person, false material information,  
15 or concealing material information, as part of, in support of, or  
16 concerning a fact material to one (1) or more of the following:

- 17 a. An application for the issuance of a life settlement contract or  
18 policy;
- 19 b. The underwriting of a life settlement contract or policy;
- 20 c. A claim for payment or benefit pursuant to a life settlement  
21 contract or policy;
- 22 d. Premiums paid on a policy;
- 23 e. Payments and changes in ownership or beneficiary made in  
24 accordance with the terms of a life settlement contract or policy;
- 25 f. The reinstatement or conversion of a policy;
- 26 g. In the solicitation, offer, effectuation, or sale of a life settlement  
27 contract or policy;

- 1                   h.    The issuance of written evidence of a life settlement contract or
- 2                   policy;
- 3                   i.    A financing transaction;
- 4                   j.    Any application for or the existence of or any payments related to a
- 5                   loan secured directly or indirectly by any interest in a life insurance
- 6                   policy; or
- 7                   k.    Stranger-originated life insurance;
- 8                2.    Employing any device, scheme, or artifice to defraud related to policies
- 9                   acquired pursuant to a life settlement contract;
- 10               3.    In the solicitation, application, or issuance of a life insurance policy,
- 11                   employing any device, scheme, or artifice in violation of state insurable
- 12                   interest laws;
- 13       (b)   Any of the following acts committed by any person or permitted by a person
- 14                   to be committed by the person's employees or agents in the furtherance of a
- 15                   fraud or to prevent detection of a fraud to:
- 16               1.    Remove, conceal, alter, destroy, or sequester from the
- 17                   commissioner~~executive director~~ the assets or records of a licensee or
- 18                   other person engaged in the business of life settlements;
- 19               2.    Misrepresent or conceal the financial condition of a licensee, financing
- 20                   entity, insurer, or other person;
- 21               3.    Transact the business of life settlements in violation of laws requiring a
- 22                   license, certificate of authority, or other legal authority for the
- 23                   transaction of the business of life settlements;
- 24               4.    File with the commissioner~~executive director~~ or the chief insurance
- 25                   regulatory official of another jurisdiction a document containing false
- 26                   information or which otherwise conceals information about a material
- 27                   fact from the commissioner~~executive director~~; or

1           5. Misrepresent the state of residence of an owner to be a state or  
2           jurisdiction that does not have a law substantially similar to this section  
3           and KRS 304.15-700 to 304.15-720;

4           (c) Embezzlement, theft, misappropriation, or conversion of moneys, funds,  
5           premiums, credits, or other property of a life settlement provider, life  
6           settlement broker, insurer, insured, owner, insurance policyowner, or any  
7           other person engaged in the business of life settlements or insurance;

8           (d) Recklessly entering into, brokering, or otherwise dealing in a life settlement  
9           contract, the subject of which is a policy that was obtained by presenting false  
10          information concerning any fact material to the policy or by concealing, for  
11          the purpose of misleading another, information concerning any fact material to  
12          the policy, where the owner or the owner's agent intended to defraud the  
13          policy issuer. For the purposes of this paragraph, "recklessly" means engaging  
14          in the conduct in conscious and clearly unjustifiable disregard of a substantial  
15          likelihood of the existence of the relevant facts or risks, such disregard  
16          involving a gross deviation from acceptable standards of conduct; or

17          (e) Attempting to commit, assisting, aiding, or abetting in the commission of, or  
18          conspiracy to commit the acts or omissions specified in this subsection.

19       (8) "Industrial life insurance" is that form of life insurance written under policies of  
20       face amount of \$3,000 or less issued on the basis of an industrial mortality table,  
21       and under which premiums are payable monthly or more often.

22       (9) "Life expectancy" means the number of months the insured under the life insurance  
23       policy to be settled can be expected to live considering medical records and  
24       appropriate experiential data.

25       (10) "Premium finance loan" means a loan made primarily for the purposes of making  
26       premium payments on a life insurance policy, which loan is secured by an interest in  
27       such life insurance policy.

- 1 (11) "Purchaser" means a person who pays compensation or anything of value as  
2 consideration for a beneficial interest in a trust which is vested with, or for the  
3 assignment, transfer, or sale of, an ownership or other interest in a life insurance  
4 policy or certificate issued pursuant to a group life insurance policy which has been  
5 the subject of a life settlement contract.
- 6 (12) "Related provider trust" means a titling trust or other trust established by a licensed  
7 life settlement provider or financing entity for the sole purpose of holding the  
8 ownership or beneficial interest in policies. The trust shall have a written agreement  
9 with the licensed life settlement provider under which the licensed life settlement  
10 provider is responsible for ensuring compliance with all statutory and regulatory  
11 requirements and under which the trust agrees to make all records and files related  
12 to life settlement transactions available to the commissioner~~executive director~~ as  
13 if those records and files were maintained directly by the licensed life settlement  
14 provider.
- 15 (13) "Settled policy" means a life insurance policy or certificate that has been acquired  
16 by a life settlement provider pursuant to a life settlement contract.
- 17 (14) "Special purpose entity" means a corporation, partnership, trust, limited liability  
18 company, or other similar entity formed solely to provide, either directly or  
19 indirectly, access to institutional capital markets for a financing entity or licensed  
20 life settlement provider.
- 21 (15) "Stranger-originated life insurance" or "STOLI" means the procurement of new life  
22 insurance by persons or entities that lack insurable interest on the insured and, at  
23 policy inception, such person or entity owns or controls, or has an arrangement or  
24 agreement to own or control, the policy or the majority of the death benefit in the  
25 policy and the insured or insured's beneficiaries receive little or none of the  
26 proceeds of the death benefits of the policy. Trusts that are created to give the  
27 appearance of insurable interest and are used to initiate policies for investors violate

1 insurable interest laws and the prohibition against wagering on life. STOLI  
2 arrangements do not include those practices set forth in paragraph (b) of subsection  
3 (17) of this section.

4 (16) "Life settlement broker" or "broker" means an individual, partnership, corporation,  
5 or other person who is working exclusively on behalf of an owner and for a fee,  
6 commission, or other valuable consideration, offers or advertises the availability of  
7 life settlements, introduces an owner to life settlement providers, or offers or  
8 attempts to negotiate life settlements between an owner and one (1) or more life  
9 settlement providers. "Life settlement broker" does not include an attorney, certified  
10 public accountant, or financial planner who is retained to represent the owner and  
11 whose compensation is not paid directly or indirectly by the life settlement provider  
12 or any other person except the owner.

13 (17) (a) "Life settlement contract" means a written agreement entered into between a  
14 life settlement provider and an owner owning a policy or who owns or is  
15 covered under a group policy insuring the life of a person and the agreement  
16 establishes the terms under which the life settlement provider will pay  
17 compensation or anything of value, which compensation or value is less than  
18 the expected death benefit of the insurance policy or certificate, in return for  
19 the owner's assignment, transfer, sale, devise or bequest of the death benefit or  
20 ownership of any portion of the insurance policy or certificate. A life  
21 settlement contract also includes a contract for a loan or other financing  
22 transaction with an owner secured primarily by an individual or group life  
23 insurance policy, other than a loan by a life insurance company pursuant to the  
24 terms of the life insurance contract, or a loan secured by the cash value of a  
25 policy. A life settlement contract includes an agreement with an owner to  
26 transfer ownership or change the beneficiary designation of a policy at a later  
27 date regardless of the date that compensation is paid to the owner. "Life

1 settlement contract" does not mean a written agreement entered into between  
 2 an owner and a person having an insurable interest in the insured's life.

3 (b) "Life settlement contract" also includes a premium finance loan made for a  
 4 policy on or before the date of issuance of the policy where:

- 5 1. The loan proceeds are not used solely to pay premiums for the  
 6 policy and any costs or expenses incurred by the lender or the  
 7 borrower in connection with the financing;
- 8 2. The owner receives on the date of the premium finance loan a  
 9 guarantee of the future life settlement value of the policy; or
- 10 3. The owner agrees on the date of the premium finance loan to sell  
 11 the policy or any portion of its death benefit on any date following  
 12 the issuance of the policy.

13 (c) "Life settlement contract" does not include:

- 14 1. A policy loan by a life insurance company pursuant to the terms of the  
 15 life insurance policy or accelerated death provisions contained in the life  
 16 insurance policy, whether issued with the original policy or as a rider;
- 17 2. A premium finance loan or any loan made by a bank or other licensed  
 18 financial institution, provided that neither default on such loan nor the  
 19 transfer of the policy in connection with such default is pursuant to an  
 20 agreement or understanding with any other person for the purpose of  
 21 evading regulation under KRS 304.15-700 to 304.15-720;
- 22 3. A collateral assignment of a life insurance policy by an owner;
- 23 4. A loan made by a lender that does not violate Subtitle 30 of this chapter,  
 24 if the loan is not described in paragraph (b) of this subsection and is not  
 25 otherwise within the definition of life settlement contract;
- 26 5. An agreement where all the parties are closely related to the insured by  
 27 blood or law or have a lawful substantial economic interest in the

1 continued life, health, and bodily safety of the person insured, or are  
2 trusts established primarily for the benefit of such parties;

3 6. Any designation, consent, or agreement by an insured who is an  
4 employee of an employer in connection with the purchase by the  
5 employer, or trust established by the employer, of life insurance on the  
6 life of the employee;

7 7. A bona fide business succession planning arrangement:

8 a. Between one (1) or more shareholders in a corporation or between  
9 a corporation and one (1) or more of its shareholders or one (1) or  
10 more trust established by its shareholders;

11 b. Between one (1) or more partners in a partnership or between a  
12 partnership and one (1) or more of its partners or one (1) or more  
13 trust established by its partners; or

14 c. Between one (1) or more members in a limited liability company  
15 or between a limited liability company and one (1) or more of its  
16 members or one (1) or more trust established by its members;

17 8. An agreement entered into by a service recipient, or a trust established  
18 by the service recipient, and a service provider, or a trust established by  
19 the service provider, who performs significant services for the service  
20 recipient's trade or business; or

21 9. Any other contract, transaction, or arrangement not included in the  
22 definition of life settlement contract as determined by the  
23 commissioner~~executive director~~ by administrative regulation.

24 (18) "Life settlement provider" or "provider" means an individual, partnership,  
25 corporation, or other person who or that enters into an agreement with a person  
26 owning a policy under the terms of which the life settlement provider pays  
27 compensation or anything of value, which compensation or value is less than the

1 expected death benefit of the insurance policy or certificate, in return for the  
 2 policyowner's assignment, transfer, sale, devise, or bequest of the death benefit or  
 3 ownership of the policy to the life settlement provider. Life settlement provider does  
 4 not include:

5 (a) Any bank, savings bank, savings and loan association, credit union, or other  
 6 licensed lending institution or creditor or secured party that takes an  
 7 assignment of a policy as collateral for a loan;

8 (b) The issuer of a policy that provides accelerated benefits that accelerate in  
 9 anticipation of death or upon the occurrence of specified life-threatening or  
 10 catastrophic conditions as defined by the policy or rider;

11 (c) Any natural person who is not licensed in accordance with KRS 304.15-700  
 12 and who enters into no more than one (1) agreement in a calendar year for the  
 13 transfer of life insurance policies for any value less than the expected death  
 14 benefit;

15 (d) A related provider trust;

16 (e) An authorized or eligible insurer that provides stop-loss coverage to a life  
 17 settlement provider, financing entity, special purpose entity, or related  
 18 provider trust;

19 (f) A special purpose entity;

20 (g) A related provider trust;

21 (h) An accredited investor or qualified institutional buyer as defined respectively  
 22 in Regulation D, Rule 501 or Rule 144A of the Federal Securities Act of  
 23 1933, as amended, and who acquires a policy from a life settlement provider;

24 (i) A purchaser;

25 (j) A financing entity; or

26 (k) Broker.

27 (19) "Owner" means a resident of this Commonwealth who is the owner of a policy or a



1 certificate holder under a group policy who enters or seeks to enter into a life  
 2 settlement contract. An owner shall not be limited to an owner of a life insurance  
 3 policy or a certificate holder under a group policy insuring the life of an individual  
 4 with a terminal or chronic illness or condition except where specifically addressed.  
 5 If there is more than one (1) owner on a single policy and the owners are residents  
 6 of different states, the transaction shall be governed by the law of the state in which  
 7 the owner having the largest percentage of ownership resides or, if the owners hold  
 8 equal ownership, the state of residence of one (1) owner agreed upon in writing by  
 9 all owners. "Owner" does not include:

- 10 (a) A life settlement provider licensed pursuant to KRS 304.9-440;
- 11 (b) A qualified institutional buyer as defined in Rule 144A of the Federal  
 12 Securities Act of 1933, as amended;
- 13 (c) A financing entity;
- 14 (d) A special purpose entity; or
- 15 (e) A related provider trust.

16 (20) "Terminally ill" means having an illness or sickness that can reasonably be expected  
 17 to result in death in twenty-four (24) months or less.

18 (21) "Wholesale life insurance" is that plan of life insurance, other than salary savings  
 19 life insurance or pension trust insurance and annuities, under which individual  
 20 policies are issued to the employees of any employer and where policies are issued  
 21 on the lives of not less than four (4) employees at date of issue. Premiums for the  
 22 policies shall be paid either wholly from the employer's funds, or funds contributed  
 23 by him, or partly from the funds and partly from funds contributed by the insured  
 24 employees.

25 ➔Section 1176. KRS 304.15-035 is amended to read as follows:

26 Nothing in this subtitle preempts or otherwise limits the provisions of the Securities Act  
 27 of Kentucky, KRS Chapter 292, or any administrative regulations, orders, policy

statements, notices, bulletins, or other interpretations issued by or through the commissioner~~[executive-director]~~ of the Kentucky Department~~[Office]~~ of Financial Institutions or the commissioner's~~[his]~~ designee acting pursuant to the Securities Act of Kentucky. Compliance with the provisions of this subtitle does not constitute compliance with any applicable provision of the Securities Act of Kentucky and any amendments thereto or any administrative regulations, orders, policy statements, notices, bulletins, or other interpretations issued by or through the commissioner~~[executive-director]~~ of the Kentucky Department~~[Office]~~ of Financial Institutions or the commissioner's~~[his]~~ designee acting pursuant to the Securities Act of Kentucky.

➔Section 1177. KRS 304.15-045 is amended to read as follows:

No college life insurance policy shall be sold or delivered in this Commonwealth unless the following provisions are complied with:

- (1) A letter of acceptance, on a form approved by the commissioner~~[executive-director]~~ is presented to the proposed insured, setting forth the conditions concerning the financing agreement, the due date of the note, the amount of the note, the annual rate of interest on the note, and the annual premium on the policy;
- (2) The acceptance letter must be signed by the proposed insured, agreeing that he has read and understands the conditions, a copy to be retained by the insured, and a copy to be retained by the agent and company;
- (3) A copy of a financing arrangement is to be attached to and made a part of the contract.

➔Section 1178. KRS 304.15-115 is amended to read as follows:

- (1) As used in this section:
  - (a) "Policy" includes annuity contracts as defined in KRS 304.5-030 which provide for policy loans, and certificates issued by a fraternal benefit society as defined in KRS 304.29-011;
  - (b) "Policyholder" includes the owner of the policy or the person designated to

1 pay premiums as shown on the records of the life insurer;

2 (c) "Policy loan" includes an advance of cash as specified in KRS 304.15-110 and  
3 any premium loan made under a policy to pay one (1) or more premiums that  
4 were not paid to the life insurer as they fell due; and

5 (d) "Published monthly average" means Moody's Corporate Bond Yield Average -  
6 Monthly Average Corporates as published by Moody's Investors Service, Inc.  
7 or any successor thereto, or, in the event that Moody's Corporate Bond Yield  
8 Average - Monthly Average Corporates is no longer published, a substantially  
9 similar average prescribed by the commissioner~~executive director~~.

10 (2) Notwithstanding any other provision of law:

11 (a) Policies issued on or after July 13, 1984, shall contain either, but not both, of  
12 the following policy loan interest rate provisions:

- 13 1. A provision permitting a maximum interest rate of not more than eight  
14 percent (8%) per annum; or
- 15 2. A provision permitting an adjustable maximum interest rate established  
16 at regular intervals by the life insurer as permitted by law.

17 (b) The rate of interest charged on a policy loan made under paragraph (a)2. of  
18 this subsection shall not exceed eighteen percent (18%) nor the higher of the  
19 following:

- 20 1. The published monthly average for the calendar month ending two (2)  
21 months before the date on which the rate is determined; or
- 22 2. The rate used to compute cash surrender values under the policy during  
23 the applicable period plus one percent (1%) per annum.

24 (c) If the maximum rate of interest is determined pursuant to paragraph (a)2. of  
25 this subsection, the policy shall contain a provision setting forth the frequency  
26 at which the rate is to be determined for that policy;

27 (d) The maximum rate for each policy shall be determined at regular intervals at

1 least once every twelve (12) months, but not more frequently than once in any  
 2 three (3) month period. At the intervals specified in the policy:

- 3 1. The rate being charged may be increased whenever such increase as  
 4 determined under paragraph (b) of this subsection would increase the  
 5 rate by one-half of one percent (0.5%) or more per annum;
- 6 2. The rate being charged shall be reduced whenever such reduction as  
 7 determined under paragraph (b) of this subsection would decrease that  
 8 rate by one-half of one percent (0.5%) or more per annum.

9 (e) The life insurer shall:

- 10 1. Notify the policyholder at the time an advance of cash is made of the  
 11 initial rate of interest on the loan;
- 12 2. Notify the policyholder with respect to premium loans of the initial rate  
 13 of interest on the loan as soon as it is reasonably practical to do so after  
 14 making the initial loan. Notice need not be given to the policyholder  
 15 when a further premium loan is added, except as provided in  
 16 subparagraph 3. of this paragraph;
- 17 3. Send to policyholders with loans reasonable advance notice of any  
 18 increase in the rate; and
- 19 4. Include in the notices required in subparagraphs 1., 2., and 3. of this  
 20 paragraph the substance of the pertinent provisions of paragraphs (a) and  
 21 (c) of this subsection.

22 (f) The loan value of the policy shall be determined in accordance with KRS  
 23 304.15-110, but no policy shall terminate in a policy year as the sole result of  
 24 changes in the interest rate during that policy year. The life insurer shall  
 25 maintain coverage during that policy year until such time at which it would  
 26 otherwise have terminated if there had been no change during that policy year;

27 (g) The substance of the pertinent provisions of paragraphs (a) and (c) of this

1 subsection shall be set forth in the policies to which they apply;

2 (h) For the purposes of this section, the rate of interest on policy loans permitted  
3 under this section shall include the interest rate charged for reinstatement of  
4 policy loans for the period during and after any lapse of a policy;

5 (i) No other provision of law shall apply to policy loan interest rates unless such  
6 provision specifically applies to such rates.

7 (3) The provisions of this section shall not apply to any policy issued before July 13,  
8 1984, unless the policyholder agrees in writing to the applicability of such  
9 provisions.

10 ➔Section 1179. KRS 304.15-120 is amended to read as follows:

11 In case the policy provides that the proceeds may be payable in installments which are  
12 determinable at issue of the policy, there shall, except as otherwise permitted by the  
13 commissioner~~executive director~~, be a table showing the amounts of the guaranteed  
14 installments.

15 ➔Section 1180. KRS 304.15-175 is amended to read as follows:

16 (1) When a life insurance policy has been paid up by completion of all premium  
17 payments, the insurer shall provide notice to the Department~~Office~~ of Insurance  
18 within thirty (30) days of completion of all policy payments. The notice to the  
19 department~~office~~ shall include the following information:

20 (a) The name of the policy holder;

21 (b) The last known address of the policy holder;

22 (c) The policy number; and

23 (d) The date the policy was paid up.

24 (2) The commissioner~~executive director~~ shall retain the notice required by subsection  
25 (1) of this section in a manner that will facilitate response to policyholder inquiries  
26 regarding their policy in the event of loss or destruction of the policy, or in the event  
27 of acquisition or merger of the insurer.

➔Section 1181. KRS 304.15-260 is amended to read as follows:

(1) No policy of life insurance shall be delivered or issued for delivery in this state if it contains any of the following provisions:

(a) A provision limiting the time within which an action at law or in equity may be commenced on such a policy to less than three (3) years after the cause of action has accrued.

(b) A provision which excludes or restricts liability for death caused in a certain specified manner or occurring while the insured has a specified status, except that a policy may contain provisions excluding or restricting coverage as specified therein in the event of death under any one (1) or more of the following circumstances:

1. Death as a result, directly or indirectly, of war, declared or undeclared, or of action by military forces, or of any act or hazard of such war or action, or of service in the military, naval, or air forces or in civilian forces auxiliary thereto, or from any cause while a member of such military, naval, or air forces of any country at war, declared or undeclared, or of any country engaged in such military action;

2. Death as a result of aviation or any air travel or flight;

3. Death as a result of specified hazardous occupation or occupations;

4. Death while the insured is a resident outside the continental United States and Canada; or

5. Death within two (2) years from the date of issue of the policy as a result of suicide, while sane or insane.

(2) A policy which contains any exclusion or restriction pursuant to paragraph (b) of subsection (1) of this section, shall also provide that in the event of death under the circumstances to which any such exclusion or restriction is applicable, the insurer will pay an amount not less than a reserve determined according to the

commissioners reserve valuation method upon the basis of the mortality table and interest rate specified in the policy for the calculation of nonforfeiture benefits (or if the policy provides for no such benefits, computed according to a mortality table and interest rate determined by the insurer and specified in the policy) with adjustment for indebtedness or dividend credit.

(3) This section shall not apply to group life insurance, health insurance, reinsurance, or annuities, or to any provision in a life insurance policy or contract supplemental thereto relating to disability benefits or to additional benefits in the event of death by accident or accidental means.

(4) Nothing contained in this section shall prohibit any provision which in the opinion of the commissioner~~executive director~~ is more favorable to the policyholder than a provision permitted by this section.

→ Section 1182. KRS 304.15-310 is amended to read as follows:

(1) No policy of life insurance, except as stated in KRS 304.15-360 shall be delivered or issued for delivery in this state unless it shall contain, in substance the following provisions, or corresponding provisions which in the opinion of the commissioner~~executive director~~ are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements hereinafter specified and are essentially in compliance with KRS 304.15-352:

(a) Paid-up nonforfeiture benefit. That, in the event of default in any premium payment, the insurer will grant, upon proper request not later than sixty (60) days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such amount as may be hereinafter specified. In lieu of such stipulated paid-up nonforfeiture benefit, the insurer may substitute, upon proper request not later than sixty (60) days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater

1 amount or longer period of death benefits or, if applicable, a greater amount or  
2 earlier payment of endowment benefits.

3 (b) Cash surrender value. That, upon surrender of the policy within sixty (60)  
4 days after the due date of any premium payment in default after premiums  
5 have been paid for at least three (3) full years in the case of ordinary insurance  
6 or five (5) full years in the case of industrial insurance, the insurer will pay, in  
7 lieu of any paid-up nonforfeiture benefit, a cash surrender value of such  
8 amount as may be hereinafter specified.

9 (c) Effective date of benefit. That a specified paid-up nonforfeiture benefit shall  
10 become effective as specified in the policy unless the person entitled to make  
11 such election elects another available option not later than sixty (60) days after  
12 the due date of the premium in default.

13 (d) Cash surrender value if policy paid up. That, if the policy shall have become  
14 paid up by completion of all premium payments or if it is continued under any  
15 paid-up nonforfeiture benefit which became effective on or after the third  
16 policy anniversary in the case of ordinary insurance or the fifth policy  
17 anniversary in the case of industrial insurance, the insurer will pay, upon  
18 surrender of the policy within thirty (30) days after any policy anniversary, a  
19 cash surrender value of such amount as may be hereinafter specified.

20 (e) Mortality table and interest rate used. In the case of policies which cause, on a  
21 basis guaranteed in the policy, unscheduled changes in benefits or premiums,  
22 or which provide an option for changes in benefits or premiums other than a  
23 change to a new policy, a statement of the mortality table, interest rate, and  
24 method used in calculating cash surrender values and the paid-up  
25 nonforfeiture benefits available under the policy. In the case of all other  
26 policies, statement of the mortality table and interest rate used in calculating  
27 the cash surrender values and the paid-up nonforfeiture benefits available



1 under the policy, together with a table showing the cash surrender value, if  
2 any, and paid-up nonforfeiture benefits, if any, available under the policy on  
3 each policy anniversary either during the first twenty (20) policy years or  
4 during the term of the policy, whichever is shorter, such values and benefits to  
5 be calculated upon the assumption that there are no dividends or paid-up  
6 additions credited to the policy and that there is no indebtedness to the insurer  
7 on the policy.

8 (f) Method used in computing value and benefit. A statement that the cash  
9 surrender values and the paid-up nonforfeiture benefits available under the  
10 policy are not less than the minimum values and benefits required by or  
11 pursuant to the insurance law of the state in which the policy is delivered; an  
12 explanation of the manner in which the cash surrender values and the paid-up  
13 nonforfeiture benefits are altered by the existence of any paid-up additions  
14 credited to the policy or any indebtedness to the insurer on the policy; if a  
15 detailed statement of the method of computation of the values and benefits  
16 shown in the policy is not stated therein, a statement that such method of  
17 computation has been filed with the insurance supervisory official of the state  
18 in which the policy is delivered; and a statement of the method to be used in  
19 calculating the cash surrender value and paid-up nonforfeiture benefit  
20 available under the policy on any policy anniversary beyond the last  
21 anniversary for which such values and benefits are consecutively shown in the  
22 policy.

23 (2) Any of the foregoing provisions or portions thereof not applicable by reason of the  
24 plan of insurance may, to the extent inapplicable, be omitted from the policy.

25 (3) The insurer shall reserve the right to defer the payment of any cash surrender value  
26 for a period of six (6) months after demand therefor with surrender of the policy.

27 ➔Section 1183. KRS 304.15-315 is amended to read as follows:

- 1 (1) This section shall be known as the "Standard Nonforfeiture Law for Individual  
2 Deferred Annuities."
- 3 (2) This section shall not apply to any reinsurance group annuity purchased under a  
4 retirement plan or plan of deferred compensation established or maintained by an  
5 employer (including a partnership or sole proprietorship) or by an employee  
6 organization, or by both, other than a plan providing individual retirement accounts  
7 or individual retirement annuities under Section 408 of the Internal Revenue Code,  
8 as now or hereafter amended, premium deposit fund, variable annuity, investment  
9 annuity, immediate annuity, any deferred annuity contract after annuity payments  
10 have commenced, or reversionary annuity, nor to any contract which shall be  
11 delivered outside this state through an agent or other representative of the insurer  
12 issuing the contract. However, to the extent that a variable annuity contract provides  
13 benefits that do not, before the maturity date, vary in accordance with the  
14 investment performance of any separate account or accounts maintained by the  
15 insurer as to such contract, as provided for in KRS 304.15-390, the contract shall  
16 contain provisions that satisfy the requirements of this section and shall not  
17 otherwise be subject to this section.
- 18 (3) In the case of contracts issued on or after the operative date of this section as  
19 defined in subsection (12) of this section, no contract of annuity, except as stated in  
20 subsection (2) of this section, shall be delivered or issued for delivery in this state  
21 unless it contains in substance the following provisions, or corresponding  
22 provisions which in the opinion of the commissioner~~executive director~~ are at least  
23 as favorable to the contract holder, upon cessation of payment of considerations  
24 under the contract.
- 25 (a) That upon cessation of payment of considerations under a contract, the insurer  
26 will grant a paid-up annuity benefit on a plan stipulated in the contract of such  
27 value as is specified in subsections (5), (6), (7), (8) and (10) of this section.

1 (b) If a contract provides for a lump sum settlement at maturity, or at any other  
2 time, that upon surrender of the contract at or prior to the commencement of  
3 any annuity payments, the insurer will pay in lieu of any paid-up annuity  
4 benefit a cash surrender benefit of such amount as is specified in subsections  
5 (5), (6), (8) and (10) of this section. The insurer shall reserve the right to defer  
6 the payment of such cash surrender benefit for a period of six (6) months after  
7 demand therefor with surrender of the contract.

8 (c) A statement of the mortality table, if any, and interest rates used in calculating  
9 any minimum paid-up annuity, cash surrender or death benefits that are  
10 guaranteed under the contract, together with sufficient information to  
11 determine the amounts of such benefits.

12 (d) A statement that any paid-up annuity, cash surrender or death benefits that  
13 may be available under the contract are not less than the minimum benefits  
14 required by any statute of the state in which the contract is delivered and an  
15 explanation of the manner in which such benefits are altered by the existence  
16 of any additional amounts credited by the insurer to the contract, any  
17 indebtedness to the insurer on the contract or any prior withdrawals from or  
18 partial surrenders of the contract.

19 Notwithstanding the requirements of this subsection, any deferred annuity contract  
20 may provide that if no considerations have been received under a contract for a  
21 period of two (2) full years and the portion of the paid-up annuity benefit at maturity  
22 on the plan stipulated in the contract arising from considerations paid prior to such  
23 period would be less than twenty dollars (\$20) monthly, the insurer may at its  
24 option terminate such contract by payment in cash of the then present value of such  
25 portion of the paid-up annuity benefit, calculated on the basis of the mortality table,  
26 if any, and interest rate specified in the contract for determining the paid-up annuity  
27 benefit, and by such payment shall be relieved of any further obligation under such

1 contract.

2 (4) The minimum values as specified in subsections (5), (6), (7), (8) and (10) of this  
3 section of any paid-up annuity, cash surrender or death benefits available under an  
4 annuity contract shall be based upon minimum nonforfeiture amounts as defined in  
5 this section.

6 (a) With respect to contracts providing for flexible considerations, the minimum  
7 nonforfeiture amount at any time at or prior to the commencement of any  
8 annuity payments shall be equal to an accumulation up to such time at a rate  
9 of interest of three percent (3%) per annum of percentages of the net  
10 considerations (as hereinafter defined) paid prior to such time, decreased by  
11 the sum of:

12 1. Any prior withdrawals from or partial surrenders of the contract  
13 accumulated at a rate of interest of three percent (3%) per annum; and

14 2. The amount of any indebtedness to the insurer on the contract, including  
15 interest due and accrued;

16 and increased by any existing additional amounts credited by the insurer to the  
17 contract. The net considerations for a given contract year used to define the  
18 minimum nonforfeiture amount shall be an amount not less than zero and  
19 shall be equal to the corresponding gross consideration credited to the contract  
20 during that contract year less an annual contract charge of thirty dollars (\$30)  
21 and less a collection charge of one dollar and twenty-five cents (\$1.25) per  
22 consideration credited to the contract during that contract year. The  
23 percentages of net considerations shall be sixty-five percent (65%) of the net  
24 consideration for the first contract year and eighty-seven and one-half percent  
25 (87.5%) of the net considerations for the second and later contract years.  
26 Notwithstanding the provisions of the preceding sentence, the percentage shall  
27 be sixty-five percent (65%) of the portion of the total net consideration for any

renewal contract year which exceeds by not more than two (2) times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%).

(b) Notwithstanding any other provision of this subsection, for any contract issued on or after July 1, 2003, and before July 1, 2006, the interest rate at which net considerations, prior withdrawals, and partial surrenders shall be accumulated for the purpose of determining nonforfeiture amounts shall be no less than one and one-half percent (1.5%) per annum.

(c) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two (2) exceptions:

1. The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent (65%) of the net consideration for the first contract year plus twenty-two and one-half percent (22.5%) of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

2. The annual contract charge shall be the lesser of,
  - a. Thirty dollars (\$30), or
  - b. Ten percent (10%) of the gross annual consideration.

(d) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent (90%) and the net consideration shall be the gross consideration less a contract

1 charge of seventy-five dollars (\$75).

2 (5) Any paid-up annuity benefit available under a contract shall be such that its present  
3 value on the date annuity payments are to commence is at least equal to the  
4 minimum nonforfeiture amount on that date. Such present value shall be computed  
5 using the mortality table, if any, and the interest rate specified in the contract for  
6 determining the minimum paid-up annuity benefits guaranteed in the contract.

7 (6) For contracts which provide cash surrender benefits, such cash surrender benefits  
8 available prior to maturity shall not be less than the present value as of the date of  
9 surrender of that portion of the maturity value of the paid-up annuity benefit which  
10 would be provided under the contract at maturity arising from considerations paid  
11 prior to the time of cash surrender reduced by the amount appropriate to reflect any  
12 prior withdrawals from or partial surrenders of the contract, such present value  
13 being calculated on the basis of an interest rate not more than one percent (1%)  
14 higher than the interest rate specified in the contract for accumulating the net  
15 considerations to determine such maturity value, decreased by the amount of any  
16 indebtedness to the insurer on the contract, including interest due and accrued, and  
17 increased by any existing additional amounts credited by the insurer to the contract.  
18 In no event shall any cash surrender benefit be less than the minimum nonforfeiture  
19 amount at that time. The death benefit under such contracts shall be at least equal to  
20 the cash surrender benefit.

21 (7) For contracts which do not provide cash surrender benefits, the present value of any  
22 paid-up annuity benefit available as a nonforfeiture option at any time prior to  
23 maturity shall not be less than the present value of that portion of the maturity value  
24 of the paid-up annuity benefit provided under the contract arising from  
25 considerations paid prior to the time the contract is surrendered in exchange for, or  
26 changed to, a deferred paid-up annuity, such present value being calculated for the  
27 period prior to the maturity date on the basis of the interest rate specified in the

1 contract for accumulating the net considerations to determine such maturity value,  
2 and increased by any existing additional amounts credited by the insurer to the  
3 contract. For contracts which do not provide any death benefits prior to the  
4 commencement of any annuity payments, such present values shall be calculated on  
5 the basis of such interest rate and the mortality table specified in the contract for  
6 determining the maturity value of the paid-up annuity benefit. However, in no event  
7 shall the present value of a paid-up annuity benefit be less than the minimum  
8 nonforfeiture amount at that time.

9 (8) For the purpose of determining the benefits calculated under subsections (6) and (7)  
10 of this section, in the case of annuity contracts under which an election may be  
11 made to have annuity payments commence at optional maturity dates, the maturity  
12 date shall be deemed to be the latest date for which election shall be permitted by  
13 the contract, but shall not be deemed to be later than the anniversary of the contract  
14 next following the annuitant's seventieth birthday or the tenth anniversary of the  
15 contract, whichever is later.

16 (9) Any contract which does not provide cash surrender benefits or does not provide  
17 death benefits at least equal to the minimum nonforfeiture amount prior to the  
18 commencement of any annuity payments shall include a statement in a prominent  
19 place in the contract that such benefits are not provided.

20 (10) Any paid-up annuity, cash surrender or death benefits available at any time, other  
21 than on the contract anniversary under any contract with fixed scheduled  
22 considerations, shall be calculated with allowance for the lapse of time and the  
23 payment of any scheduled considerations beyond the beginning of the contract year  
24 in which cessation of payment of considerations under the contract occurs.

25 (11) For any contract which provides, within the same contract by rider or supplemental  
26 contract provision, both annuity benefits and life insurance benefits that are in  
27 excess of the greater of cash surrender benefits or a return of the gross

1 considerations with interest, the minimum nonforfeiture benefits shall be equal to  
 2 the sum of the minimum nonforfeiture benefits for the annuity portion and the  
 3 minimum nonforfeiture benefits, if any, for the life insurance portion computed as if  
 4 each portion were a separate contract. Notwithstanding the provisions of  
 5 subsections (5), (6), (7), (8), and (10) of this section, additional benefits payable:

- 6 (a) In the event of total and permanent disability;
- 7 (b) As reversionary annuity or deferred reversionary annuity benefits; or
- 8 (c) As other policy benefits additional to life insurance, endowment and annuity  
 9 benefits, and considerations for all such additional benefits;

10 shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up  
 11 annuity, cash surrender and death benefits that may be required by this section. The  
 12 inclusion of such additional benefits shall not be required in any paid-up benefits,  
 13 unless such additional benefits separately would require minimum nonforfeiture  
 14 amounts, paid-up annuity, cash surrender and death benefits.

15 (12) (a) 1. After August 1, 2005, any insurer may file with the  
 16 commissioner~~[executive director]~~ a written notice of its election to  
 17 apply the provisions of KRS 304.15-365 on a contract-form by contract-  
 18 form basis to annuity contracts issued by the insurer during the period  
 19 from the date of the election through June 30, 2006;

20 2. In all other instances, insurers shall apply the provisions of KRS 304.15-  
 21 315 to annuity contracts issued through June 30, 2006; and

22 (b) Insurers shall apply the provisions of KRS 304.15-365 to all annuity contracts  
 23 issued on or after July 1, 2006.

24 ➔Section 1184. KRS 304.15-340 is amended to read as follows:

25 (1) How calculated. This section shall not apply to policies issued on or after the  
 26 operative date of KRS 304.15-342 as defined therein. Except as provided in  
 27 subsection (4) of this section, the adjusted premiums for any policy shall be



1 calculated on an annual basis and shall be such uniform percentage of the respective  
2 premiums specified in the policy for each policy year, excluding any extra  
3 premiums charged because of impairment or special hazards, that the present value,  
4 at the date of issue of the policy, of all such adjusted premiums shall be equal to the  
5 sum of:

6 (a) The then present value of the future guaranteed benefits provided for by the  
7 policy;

8 (b) Two percent (2%) of the amount of insurance, if the insurance be uniform in  
9 amount, or of the equivalent uniform amount, as hereinafter defined, if the  
10 amount of insurance varies with duration of the policy;

11 (c) Forty percent (40%) of the adjusted premium for the first policy year; and

12 (d) Twenty-five percent (25%) of either the adjusted premium for the first policy  
13 year or the adjusted premium for a whole life policy of the same uniform or  
14 equivalent uniform amount with uniform premiums for the whole of life  
15 issued at the same age for the same amount of insurance, whichever is less.

16 (2) In applying the percentages specified in paragraphs (c) and (d) of subsection (1) of  
17 this section, no adjusted premium shall be deemed to exceed four percent (4%) of  
18 the amount of insurance or uniform amount equivalent thereto. Whenever the plan  
19 or term of a policy has been changed, either by request of the insured or  
20 automatically in accordance with the provisions of the policy, the date of issue of  
21 the changed policy for the purposes of determining a nonforfeiture benefit or cash  
22 surrender value shall be the date as of which the age of the insured is determined for  
23 the purposes of the changed policy. The date of issue of a policy for the purpose of  
24 this section shall be the date as of which the rated age of the insured is determined.

25 (3) In the case of a policy providing an amount of insurance varying with duration of  
26 the policy, the equivalent uniform amount thereof for the purpose of this section  
27 shall be deemed to be the uniform amount of insurance provided by an otherwise

1 similar policy, containing the same endowment benefit or benefits, if any, issued at  
 2 the same age and for the same term, the amount of which does not vary with  
 3 duration and the benefits under which have the same present value at the date of  
 4 issue as the benefits under the policy; provided that in the case of a policy providing  
 5 a varying amount of insurance issued on the life of a child under age ten (10), the  
 6 equivalent uniform amount may be computed as though the amount of insurance  
 7 provided by the policy prior to the attainment of age ten (10) were the amount  
 8 provided by such policy at age ten (10).

9 (4) The adjusted premiums for any policy providing term insurance benefits by rider or  
 10 supplemental policy provision shall be equal to:

11 (a) The adjusted premiums for an otherwise similar policy issued at the same age  
 12 without such term insurance benefits, increased, during the period for which  
 13 premiums for such term insurance benefits are payable, by

14 (b) The adjusted premiums for such term insurance, paragraphs (a) and (b) of this  
 15 subsection being calculated separately and as specified in subsections (1), (2)  
 16 and (3) of this section, except that, for the purposes of paragraphs (b), (c), and  
 17 (d) of subsection (1) of this section, the amount of insurance or equivalent  
 18 uniform amount of insurance used in the calculation of the adjusted premiums  
 19 referred to in paragraph (b) of this subsection shall be equal to the excess of  
 20 the corresponding amount determined for the entire policy over the amount  
 21 used in the calculation of the adjusted premiums in paragraph (a) of this  
 22 subsection.

23 (5) All adjusted premiums and present values referred to in KRS 304.15-310 to 304.15-  
 24 360, inclusive, but not including KRS 304.15-342 and 304.15-344 shall for all  
 25 policies of ordinary insurance be calculated on the basis of the Commissioners 1958  
 26 Standard Ordinary Mortality Table, provided that for any category of ordinary  
 27 insurance issued on female risks, adjusted premiums and present values may be

calculated according to an age not more than six (6) years younger than the actual age of the insured, and such calculations for all policies of industrial insurance shall be made on the basis of the Commissioners 1961 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits provided that such rate of interest shall not exceed four percent (4%) per year except that a rate of interest not exceeding five and one-half percent (5.5%) per year may be used for policies issued on or after June 17, 1978. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit for ordinary insurance, the rates of mortality assumed may not be more than those shown in the Commissioners 1958 Extended Term Insurance Table and for industrial insurance the rates of mortality may not be more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner~~executive director~~.

➔Section 1185. KRS 304.15-342 is amended to read as follows:

- (1) This section shall apply to all policies issued on or after the effective date of this section as defined in subsection (11) of this section. Except as provided in subsection (7) of this section, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all

adjusted premiums shall be equal to the sum of:

- (a) The then present value of the future guaranteed benefits provided for by the policy;
- (b) One percent (1%) of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years; and
- (c) One hundred twenty-five percent (125%) of the nonforfeiture net level premium as hereinafter defined.

Provided, however, that in applying the percentage specified in (c) above, no nonforfeiture net level premium shall be deemed to exceed four percent (4%) of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years. This date of issue of a policy for the purpose of this section shall be the date as of which the rated age of the insured is determined.

- (2) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one (1) per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due.
- (3) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future benefits and premiums do not change from those

1 stipulated by the policy immediately after the change.

2 (4) Except as otherwise provided in subsection (7) of this section, the recalculated  
 3 future adjusted premiums for any such policy shall be such uniform percentage of  
 4 the respective future premiums specified in the policy for each policy year,  
 5 excluding amounts payable as extra premiums to cover impairments and special  
 6 hazards, and also excluding any uniform annual contract charge or policy fee  
 7 specified in the policy in a statement of the method to be used in calculating the  
 8 cash surrender values and paid-up nonforfeiture benefits, that the present value, at  
 9 the time of change to the newly defined benefits or premiums, of all such future  
 10 adjusted premiums shall be equal to the excess of (a) the sum of the then present  
 11 value of the then future guaranteed benefits provided for by the policy and the  
 12 additional expense allowance, if any, over (b) the then cash surrender value, if any,  
 13 or present value of any paid-up nonforfeiture benefit under the policy.

14 (5) The additional expense allowance, at the time of the change to the newly defined  
 15 benefits or premiums, shall be the sum of:

16 (a) One percent (1%) of the excess, if positive, of the average amount of  
 17 insurance at the beginning of each of the first ten (10) policy years subsequent  
 18 to the change over the average amount of insurance prior to the change at the  
 19 beginning of each of the first ten (10) policy years subsequent to the time of  
 20 the most recent previous change, or, if there has been no previous change, the  
 21 date of issue of the policy; and

22 (b) One hundred twenty-five percent (125%) of the increase, if positive, in the  
 23 nonforfeiture net level premium.

24 (6) The recalculated nonforfeiture net level premium shall be equal to the result  
 25 obtained by dividing (a) by (b) where:

26 (a) Equals the sum of:

27 1. The nonforfeiture net level premium applicable prior to the change times

the present value of an annuity of one (1) per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred, and

2. The present value of the increase in future guaranteed benefits provided for by the policy, and

(b) Equals the present value of an annuity of one (1) per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(7) Notwithstanding any other provisions of this section to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, such policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.

(8) All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the commissioners 1980 standard ordinary mortality table or at the election of the insurer for any one (1) or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten-year select mortality factors; shall for all policies of industrial insurance be calculated on the basis of the commissioners 1961 standard industrial mortality table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this section for policies issued in that calendar year. Provided, however, that:

(a) At the option of the insurer, calculations for all policies issued in a particular

1           calendar year may be made on the basis of a rate of interest not exceeding the  
2           nonforfeiture interest rate, as defined in this section, for policies issued in the  
3           immediately preceding calendar year.

4           (b) Under any paid-up nonforfeiture benefit, including any paid-up dividend  
5           additions, any cash surrender value available, whether or not required by KRS  
6           304.15-310, shall be calculated on the basis of the mortality table and rate of  
7           interest used in determining the amount of such paid-up nonforfeiture benefit  
8           and paid-up dividend additions, if any.

9           (c) Any insurer may calculate the amount of any guaranteed paid-up nonforfeiture  
10          benefit including any paid-up additions under the policy on the basis of an  
11          interest rate no lower than that specified in the policy for calculating cash  
12          surrender values.

13          (d) In calculating the present value of any paid-up term insurance with  
14          accompanying pure endowment, if any, offered as a nonforfeiture benefit, the  
15          rates of mortality assumed may be not more than those shown in the  
16          commissioners 1980 extended term insurance table for policies of ordinary  
17          insurance and not more than the commissioners 1961 industrial extended term  
18          insurance table for policies of industrial insurance.

19          (e) For insurance issued on a substandard basis, the calculation of any such  
20          adjusted premiums and present values may be based on appropriate  
21          modifications of the aforementioned tables.

22          (f) Any ordinary mortality tables, adopted after 1980 by the National Association  
23          of Insurance Commissioners, that are approved by regulation promulgated by  
24          the commissioner~~[executive director]~~ for use in determining the minimum  
25          nonforfeiture standard may be substituted for the commissioners 1980  
26          standard ordinary mortality table with or without ten-year select mortality  
27          factors or for the commissioners 1980 extended term insurance table.

1 (g) Any industrial mortality tables, adopted after 1980 by the National  
 2 Association of Insurance Commissioners, that are approved by regulation  
 3 promulgated by the commissioner~~[executive director]~~ for use in determining  
 4 the minimum nonforfeiture standard may be substituted for the commissioners  
 5 1961 standard industrial mortality table or the commissioners 1961 industrial  
 6 extended term insurance table.

7 (9) The nonforfeiture interest rate per annum for any policy issued in a particular  
 8 calendar year shall be equal to one hundred twenty-five percent (125%) of the  
 9 calendar year statutory valuation interest rate for such policy as defined in KRS  
 10 304.6-130 to 304.6-180, inclusive to the nearer one quarter of one percent (0.25%).

11 (10) Notwithstanding any other provision in this code to the contrary, any refiling of  
 12 nonforfeiture values or their methods of computation for any previously approved  
 13 policy form which involves only a change in the interest rate or mortality table used  
 14 to compute nonforfeiture values shall not require refiling of any other provisions of  
 15 that policy form.

16 (11) Any insurer may file with the commissioner~~[executive director]~~ a written notice of  
 17 its election to comply with the provisions of this section after a specified date before  
 18 January 1, 1989, which shall be the effective date of this section for such insurer. If  
 19 an insurer makes no such election, the effective date of this section for such insurer  
 20 shall be January 1, 1989.

21 ➔Section 1186. KRS 304.15-344 is amended to read as follows:

22 (1) In the case of any plan of life insurance which provides for future premium  
 23 determination, the amounts of which are to be determined by the insurer based on  
 24 then estimates of future experience, or in the case of any plan of life insurance  
 25 which is of such a nature that minimum values cannot be determined by the  
 26 methods described in KRS 304.15-310 to 304.15-340 and in KRS 304.15-342, then:

27 (a) The commissioner~~[executive director]~~ must be satisfied that the benefits



provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by KRS 304.15-310 to 304.15-360 herein;

(b) The commissioner~~executive director~~ must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds;

(c) The cash surrender values and paid-up nonforfeiture benefits provided by such plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of KRS 304.15-310 to 304.15-360, as determined by regulations promulgated by the commissioner~~executive director~~.

(d) Notwithstanding any other provision in the laws of this state, any policy, contract or certificate providing life insurance under any such plan must be affirmatively approved by the commissioner~~executive director~~ before it can be marketed, issued, delivered or used in this state.

➔Section 1187. KRS 304.15-365 is amended to read as follows:

(1) This section shall be known as the "Standard Nonforfeiture Law for Individual Deferred Annuities of 2005."

(2) This section shall not apply to any reinsurance group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the insurer

1 issuing the contract. However, to the extent that a variable annuity contract provides  
 2 benefits that do not, before the maturity date, vary in accordance with the  
 3 investment performance of any separate account or accounts maintained by the  
 4 insurer as to such contract, as provided for in KRS 304.15-390, the contract shall  
 5 contain provisions that satisfy the requirements of this section and shall not  
 6 otherwise be subject to this section.

7 (3) In the case of contracts issued on or after July 1, 2006, no contract of annuity,  
 8 except as provided in subsection (2) of this section, shall be delivered or issued for  
 9 delivery in this state unless it contains in substance the following provisions, or  
 10 corresponding provisions which in the opinion of the commissioner~~executive~~  
 11 ~~director~~ are at least as favorable to the contract holder, upon cessation of payment  
 12 of considerations under the contract:

13 (a) That upon cessation of payment of considerations under a contract, or upon  
 14 the written request of the contract owner, the insurer shall grant a paid-up  
 15 annuity benefit on a plan stipulated in the contract of such value as is specified  
 16 in subsections (8), (9), (10), (11), and (13) of this section;

17 (b) If a contract provides for a lump sum settlement at maturity, or at any other  
 18 time, that upon surrender of the contract at or prior to the commencement of  
 19 any annuity payments, the insurer shall pay, in lieu of any paid-up annuity  
 20 benefit, a cash surrender benefit of such amount as is specified in subsections  
 21 (8), (9), (10), (11), and (13) of this section. The insurer may reserve the right  
 22 to defer the payment of this cash surrender benefit for a period not to exceed  
 23 six (6) months after demand therefor with surrender of the contract after  
 24 making written request and receiving written approval of the  
 25 commissioner~~executive director~~. The request shall address the necessity and  
 26 equitability to all policyholders of the deferral;

27 (c) A statement of the mortality table, if any, and interest rates used in calculating

1 any minimum paid-up annuity, cash surrender or death benefits that are  
2 guaranteed under the contract, together with sufficient information to  
3 determine the amounts of such benefits; and

- 4 (d) A statement that any paid-up annuity, cash surrender or death benefits that  
5 may be available under the contract are not less than the minimum benefits  
6 required by any statute of the state in which the contract is delivered and an  
7 explanation of the manner in which these benefits are altered by the existence  
8 of any additional amounts credited by the insurer to the contract, any  
9 indebtedness to the insurer on the contract, or any prior withdrawals from or  
10 partial surrenders of the contract.

11 Notwithstanding the requirements of this subsection, any deferred annuity contract  
12 may provide that if no considerations have been received under a contract for a  
13 period of two (2) full years and the portion of the paid-up annuity benefit at maturity  
14 on the plan stipulated in the contract arising from considerations paid prior to that  
15 period would be less than twenty dollars (\$20) monthly, the insurer may at its  
16 option terminate the contract by payment in cash of the then-present value of such  
17 portion of the paid-up annuity benefit, calculated on the basis of the mortality table,  
18 if any, and interest rate specified in the contract for determining the paid-up annuity  
19 benefit, and by this payment shall be relieved of any further obligation under such  
20 contract.

- 21 (4) The minimum values as specified in subsections (8), (9), (10), (11), and (13) of this  
22 section of any paid-up annuity, cash surrender, or death benefits available under an  
23 annuity contract shall be based upon minimum nonforfeiture amounts as defined in  
24 this section.

- 25 (a) The minimum nonforfeiture amount at any time at or prior to the  
26 commencement of any annuity payments shall be equal to an accumulation up  
27 to that time at rates of interest as indicated in subsection (5) of this section of

the net considerations, as defined in paragraph (b) of this subsection, paid prior to that time, decreased by the sum of:

1. Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest as indicated in subsection (5) of this section;
2. An annual contract charge of fifty dollars (\$50) accumulated at rates of interest as indicated in subsection (5) of this section; and
3. The amount of any indebtedness to the insurer on the contract, including interest due and accrued.

(b) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half percent (87.5%) of gross considerations credited to the contract during that contract year.

(5) The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of three percent (3%) per annum and the following, which shall be specified in the contract if the interest rate will be reset:

- (a) The five (5) year Constant Maturity Treasury Rate reported by the Federal Reserve as of a date or average over a period rounded to the nearest one-twentieth of one percent (0.05%), specified in the contract no longer than fifteen (15) months prior to the contract issue date or redetermination date under paragraph (d) of this subsection;
- (b) Reduced by one hundred twenty-five (125) basis points;
- (c) Where the resulting interest rate is not less than one percent (1%); and
- (d) The interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date basis and period, if any, shall be stated in the contract. The basis is the date or average over a specified period